

HEALTH COMMITTEE of the Suffolk County Legislature

Minutes

A regular meeting of the Health Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Hauppauge, New York, on **January 25, 2001**, at 10:00 A.M.

Members Present:

Legislator Ginny Fields - Chairperson
Legislator Brian Foley - Vice-Chair
Legislator Martin Haley
Legislator Maxine Postal

Also in Attendance:

Paul Sabatino - Counsel to the Legislature
Mary Skiber - Aide to Legislator Fisher
Fred Pollert - Director/Budget Review Office
Kim Brandeau - Budget Analyst/Budget Review Office
Marla Musnug - Aide to Presiding Officer Tonna
Tom Donovan - Aide to Presiding Officer Tonna
Bonnie L. Godsman - County Executive's Office/IR
Betty Gallagher - County Executive Assistant
Basia Deren-Braddish - County Attorney's Office
Dr. Clare Bradley - Commissioner/Department of Health Services
Bob Maimoni - Head of Administrative Services/Dept of Health Services
Ann Marie Carbonetto - Department of Health Services
Gene Durney - Program Administrator/Department of Health Services
Dan Hickey - Commissioner/Department of Social Services
Bill Jones - Deputy Commissioner/Department of Social Services
Phyllis Garbarino - President/AME
Nancy Manteiga - 2nd Vice-President/AME
Madeline Feindt - 3rd Vice-President/AME
Elsie Owens - Elsie Owens Coram Health Center
Wayne Jones - Elsie Owens Coram Health Center
Marilyn Shellabarger - Health Center Liaison Committee
Warren Horst - Suffolk County Fire Marshall's Office
Jim McLoughlin - Suffolk County Fire Marshal's Office
Valerie Burgher - Newsday
All Other Interested Parties

Minutes Taken By:

Alison Mahoney - Court Stenographer

(*The meeting was called to order at 10:26 A.M.*)

CHAIRPERSON FIELDS:

Okay, we're going to start the meeting. Sorry we're so late, we had a couple of DARE graduations and some other things. But hopefully from this point forward we will start a new year and begin the meetings

exactly at the time that they are to start with nothing holding us back. So let's try that as our New Year's resolution. Could we please stand and have the Pledge of Allegiance led by Legislator Foley.

Salutation

We have two cards, I don't know which one was first. But I guess we'll begin with Elsie Owens which I think is probably appropriate because that's what we're going to talk about.

MS. OWENS:

Good morning. My name is Elsie Owens and I'm from the Elsie Owens Health Center. I'm here, I'm kind of wondering, you know, what's going to happen, but I did pick up your sheet saying that there would be talk about the Elsie Owens Health Center, about the renovation or the lack of renovation. So I'm here, as I spoke to Legislator Fields last week and asked her what were some of the problems that we were having and she asked me to come to this meeting, so I'm here today to find out exactly what it is that's holding up the contract, if it's going and what's going to happen.

CHAIRPERSON FIELDS:

Do you have any information about the center? Can you give us a very brief history of what you've seen in the center in the past?

MS. OWENS:

Well, we have had a lot of problems. I think that I have fought very, very hard for the health center and have fought very, very hard that we keep the Department of Social Services with us in the building because we thought that the two were very much needed. We know that we need to enlarge the building and we had started on that two years ago or three years ago, hopefully that we are here now to find out exactly what are the holdups and what do we need to do to make it move further. We know that we have problems there because we don't have the space.

(*Legislator Haley entered the meeting at 10:29 A.M.*)

CHAIRPERSON FIELDS:

Legislator Foley.

LEG. FOLEY:

Thank you, Elsie, for attending today, and that's precisely what we as a committee want to find out also. When, through the Chair, I and others heard about the weeks of no heat in October, other issues of delays in other approvals for the expansion of the building, whether it has to do with the sewage treatment facility, what's of most concern to all of us is that many -- well, many of us had given conditional improvement -- approval, rather, to the lease because -- and the expansion because of the very poor landlord/tenant history at

that building. And we had extracted a number of -- what we considered a number of promises both from the Executive Branch as well as from the managers of the facility, that they would change their ways and that they would act differently in the future than they had in the past. So when we heard of these problems in the fall, although we just heard -- we heard of them months later, and when we heard of the delays now because of the problems with the sewage treatment plant and the fact that they're supposed to complete this within 400 or some odd days and we'll well past the 100 day mark, although it's 400 days, where this is supposed to be completed, expansion is to be completed, that's why the Chair and others of us on the committee wanted at the very first meeting to get not only a clearer picture but also get some answers to questions that workers have in the area, advocates for the health centers have and that we Legislators have about promises that were made to us that quite frankly we don't think are being kept. So that's why we're here today, to find those things out. Thank you.

MS. OWENS:

Yeah, I will agree with you that we have had many, many problems with the landlord. At one time we had contemplated moving out of the building because of all the problems that we have had with the landlord, and I guess we still are having some. I'm hoping that whatever we do here today it will be speedy, you know, on solving the problems at the health center because we need to take care of the patients that are there and make sure that the workers, you know, have the best benefits.

CHAIRPERSON FIELDS:

That is our aim. We originally were a bit apprehensive about approving the lease because there were things in it that we didn't feel were going to be beneficial to the employees, never mind the clients that go there. But, you know, I personally had taken a tour of the facility and was a bit upset and then we were given certain promises that we will try to find out whether those have been kept or will be kept. And so unless you have anything else to add, we'll ask the next speaker to come and then try to figure out how we can get to the quickest resolution of getting that building completed.

MS. OWENS:

No, I don't have any -- I do have one thing that I need to say. As long as I have been there and been there since the building was built, we have had problems with the Department of Social Services. I didn't know that they were having the problems that they had, they never came to the meeting and tell us whether or not there was heat upstairs, they might have told my administrator but it never got back to us.

CHAIRPERSON FIELDS:

May I interrupt you? You just said they never came to the meeting; what meeting are you referring to?

MS. OWENS:

We have the Advisory Boards Meeting once a month and everyone is invited, that's when we do talk about what's happening in there, what service that we are getting, what we are not getting. We had not heard from the Department of Social Services until we started having some of these meetings and then I saw them come forward. I -- and I don't know about my administrator -- did not know that they were having problems upstairs with the heat. We knew that they didn't have the space to operate as they should, but not a problem with the heat. We knew we didn't have water, they were having bottled water, but that's -- I guess that's about all I can say. I might want to say something later on

CHAIRPERSON FIELDS:

Okay.

MS. OWENS:

-- as we get on into it.

CHAIRPERSON FIELDS:

All right. I would --

LEG. HALEY:

Question.

CHAIRPERSON FIELDS:

Okay, just one second, Marty, if you would suffer. May I ask, though, that the Department of Social Services try to attend some of those advisory meetings so that --

COMMISSIONER HICKEY:

I believe our Center Manager does and is a part of that committee.

MS. OWENS:

We now in the last past three or four months do have someone representing the Department of Social Services.

CHAIRPERSON FIELDS:

Okay.

MS. OWENS:

But before there was none there.

CHAIRPERSON FIELDS:

Okay, thank you. Legislator Haley.

LEG. HALEY:

Hi.

MS. OWENS:

Good morning.

LEG. HALEY:
How you doing?

MS. OWENS:
Fine, thank you.

LEG. HALEY:
You have to forgive me, I'm new on this Health Committee. I'm not familiar with the Advisory Committee, could you give me an overview real quick of what the purpose of the Advisory Committee is?

MS. OWENS:
The Advisory Committee was written in the first proposal that they would have an advisory committee that would be -- sit there to represent the clients and the university and the County. All health centers have advisory committees and we are on that advisory committee.

LEG. HALEY:
Okay, thank you.

CHAIRPERSON FIELDS:
Right before Legislator Postal, is it possible for me to get an invitation to that Advisory Committee from this point forward?

MS. OWENS:
You most certainly will. In fact, I have asked administrators to send you the minutes and also invite you or any other Legislators to our meeting. We do have someone representing the Legislators from Fred Towle's office, we do not have anyone from the person who represents the health center, Joe Caracappa, but he has not been able to attend any of our meetings, and we do send the minutes and we do invite him.

CHAIRPERSON FIELDS:
Okay, thank you. Legislator Postal.

LEG. POSTAL:
I know that I get invited to the Advisory Committee meetings at Tri-Community and Martin Luther King Health Centers. As the Chair of the Health Committee years ago, I used to get invited to the Riverhead Committee meetings; as a matter of fact, I still get their minutes. And it's really -- it's helpful, I find it very helpful to go because you become aware of the day-to-day operational issues. But with regard to this center, you know, there's nothing new under the sun and I begin to feel like this old person who's been here forever, but back in 1988 there were problems with that building.

MS. OWENS:

Yes, there was.

LEG. POSTAL:

I remember going on a tour through the building then to look at the problems as they affected both the DSS Center and the Health Center and there was -- when we discussed the lease, one of the reasons I supported moving forward on the lease was the commitment that we finally were going to address some of these issues, and I really feel kind of like one's been put over on me, and we don't seem to be making progress. I was wondering whether we have anybody from the County Attorney's Office here; oh, good, okay. And I don't know, the Chair might have plans for discussing --

CHAIRPERSON FIELDS:

Maybe we'll --

LEG. POSTAL:

Yes, good.

CHAIRPERSON FIELDS:

If you would just wait for a few minutes, we have one other speaker and then we would appreciate --

LEG. POSTAL:

Great, because I can't wait to hear from the County Attorney. Thank you.

CHAIRPERSON FIELDS:

I tried -- Mary, do you have a list of the people who were invited to this meeting?

MS. SKIBER:

Yes, I'll have to get it.

LEG. FOLEY:

Is there anyone from the management firm here?

CHAIRPERSON FIELDS:

Okay, let's go to the second speaker, Marilyn Shellaburger?

LEG. POSTAL:

Shellabarger.

CHAIRPERSON FIELDS:

Shellabarger.

MS. SHELLABARGER:

Good morning and Happy New Year to everybody. But what I'm really -- boy, am I impressed, this is my first time in this new refurbished auditorium and it's very impressive.

LEG. FOLEY:

This is what we expect the Coram Health Center to look like.

MS. SHELLABARGER:

And I asked someone, are there more seats and they said no, but there is certainly a much more spacious feel, although no bullet proof glass.

LEG. FOLEY:

There is a net increase in the seats.

MS. SHELLABARGER:

There is?

LEG. FOLEY:

Yes, I was told there were.

CHAIRPERSON FIELDS:

And I think we need the bullet proof, not you.

MS. SHELLABARGER:

Yeah, that's what I understand; nah, you don't really, not in a democracy.

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Anyhow, I'm Chairperson of the Liaison Committee which is the overall group of all of the Health Center Advisory Board Presidents and administrators and we just had a meeting last week and at the meeting -- and I had just received the notice as I walked out my door by fax of this meeting. So we didn't particularly discuss those problems because we had so much other stuff going on, but we did know that we were going to attend here.

But I also wanted to say that it's nice to come and say thank you, during the budget process everybody was very helpful and we've been doing this for so many years, Elsie and I, we said we hate to think how many hears years we've been trekking up here. Anyhow, we had a presentation by the Neighborhood Aides which had been proposed and put in the budget last year and it's gradually and the enthusiasm of the administrators for the Neighborhood Aid Program was heartwarming to feel. And I thought you should know that since it came out of the Legislature to propose this, to put these back in which, you know, have been in and out of the budget for 30 years, and we're glad to see them in.

And I just wanted you to know that there is a wonderful success story that we really appreciate it and I think Maxine, you were --

LEG. FOLEY:

She was the prime sponsor.

MS. SHELLABARGER:

-- the one that put it in.

LEG. POSTAL:

Thank you.

MS. SHELLABARGER:

And so I thought I would come here. And I also wanted to talk about all the rest of the health centers.

The number of people that come in to the health centers is overwhelming. All the buildings constantly have problems because I'm sure you hear about them, and we're glad to catch your attention and let you know, be we also appreciate the fact that the health centers are such a success. And one of our things that we had done over the holidays and things from the Liaison Committee was letting the seniors know about the availability of the health centers as they were abandoned by their HMO's, and we have gotten publicity and we have had some and a couple of the health centers have already noticed an influx of some of the persons who had been on HMO's and have had to come back. So we want you to know that the health centers may be now, quote, establishments.

I always remind everybody, we have health centers because we do not have a County hospital. We know that that was a hole in the ground that you would pour money in and when that decision was made, and I'm going back through my notes, it was 1966 to 1968 that decision was made not to build a County hospital on such a long, narrow piece of land. And I'm just one of those -- I like history because I like to know the reasons for things to remind people, and how important this is to the people of Suffolk County. Thank you.

CHAIRPERSON FIELDS:

Thank you. Legislator Postal.

LEG. POSTAL:

Yeah, just -- thank you, by the way. I'm very excited about the Neighborhood Aid Program, I really think it is important, was important, will continue to be important.

In view of what you said about the County Health Centers, I wish I had some with me, I don't. Martin Luther King and Wyandanch was the first of the County Health Centers and there's a history that I think every member of the Legislature has to know because there was enormous resistance to establishing that center, you know, it was socialized medicine and there was a lot of opposition from every quarter. And they just put out an anniversary Journal, I'm sure you have seen a copy of it, I'm going to have to get copies for the members of the

committee because there are pictures in that journal of -- it's a real historic document that kind of tells the story of the establishment of the center and there are pictures of H. Lee Dennison and Anne Mead and former Legislator John Foley as movers and shakers who brought us to this point.

It's very hard for us now, looking at the health centers and knowing how well established and accepted they are and how much a part of our health care system they are now and how we could not do without them, to recognize how radical they were when they first started in this County and the foresight of the people who had the good sense to start with that first health center and go from there just astounds me. So I'm going to get copies of that journal for all the members of the committee.

CHAIRPERSON FIELDS:

Thank you.

LEG. FOLEY:

Madam Chair, if I may?

CHAIRPERSON FIELDS:

Let me just for the record, and then Legislator Foley. The people who got -- who received invitations to this health Committee meeting were Barbara Braddish from the County Attorney's Office, Roy Dragotta from the County Attorney's Office, Dr. Clare Bradley, Jean Durney from the Health Department, Phyllis Garbarino from AME, Wayne Jones from the Elsie Owens Health center, Bill Jones from Social Services, Dan Hickey from Social Services, Ann Marie Carbonetto from Health Department, David Grier from the County Attorney's Office and James McLaughlin} from Fire, Rescue. Legislator Foley.

LEG. FOLEY:

Thank you. Back for a moment with the Neighborhood Aides and the fact that they're being so well utilized in different areas of the County. Whether you can answer this, Marilyn, certainly I'm sure the Commissioner can after we discuss the Coram Health Center. You mentioned senior citizens; are the Neighborhood Aides also being utilized by going to the different senior centers and the senior clubs in the different townships --

MS. SHELLABARGER:

Yes.

LEG. FOLEY:

-- to talk about the health centers?

MS. SHELLABARGER:

Where there are aides, they have been attending -- you know, there's Sunshine Clubs, there's all sorts of different things.

LEG. FOLEY:

Each town has a number of senior centers and senior clubs.

MS. SHELLABARGER:

Well, I spoke with the Senior Aide and she was assuring me, and the west end got the aides last year, Coram and Patchogue only -- their aides only started in December and I know that they were doing that immediately because it was one of the things that we had pushed at our Advisory Board meetings. But the east end, unfortunately, those aides are in the works, but they haven't been hired so that Shirley and Riverhead, they lost the one in Southampton, there are no aides so our other sources are being utilized, but that's where -- they have been, yes. And other organizations have been utilized and we have also used volunteers that were in the advisory committees to go around to their -- a lot of us are not in the youth organizations, we're mostly in the senior groups.

LEG. FOLEY:

Okay, thank you.

CHAIRPERSON FIELDS:

Thank you very much. Okay, from the County Attorney's Office, I think we'll start there.

COMMISSIONER BRADLEY:

Do you want everyone?

CHAIRPERSON FIELDS:

Whoever I mentioned that was invited who did come in, maybe if we could have a couple of people come up to the front and that way it would move things I think a little quicker, a panel discussion.

CHAIRPERSON FIELDS:

Ann Marie maybe, are you here?

MS. CARBONETTO:

Yes.

CHAIRPERSON FIELDS:

Wayne, maybe we can have you also. And I don't know, maybe Warren or Jimmy, whoever -- great. And you'll have to share microphones, there are two. Thanks. From the County Attorney's Office, maybe you could start.

MS. DEREN-BRADDISH:

Okay.

CHAIRPERSON FIELDS:

And give your name for the stenographer, please.

MS. DEREN-BRADDISH:

Basia Braddish from the County Attorney's Office. I am new to the leasing area --

CHAIRPERSON FIELDS:

Can you talk very closely into the microphone?

MS. DEREN-BRADDISH:

Okay. I'm new to the leasing area so I was informed to reconstruct these events through Roy Dragotta who is actually handling it.

LEG. FOLEY:

Is there a reason why Mr. Dragotta is not here?

MS. DEREN-BRADDISH:

Mr. Dragotta is taking vacation, he's retiring in a week or two and he's got time he's got to use so he had planned a vacation, a while ago actually.

CHAIRPERSON FIELDS:

I did request in writing his attendance and he called and said he'd prefer not because he wanted to go away and I did kind of insist that I would like to have him here in case there were questions that might remain unanswered, but he elected not to come in and said that you would be able to provide us with everything.

MS. DEREN-BRADDISH:

Well, I hope so.

CHAIRPERSON FIELDS:

The pressure is on.

MS. DEREN-BRADDISH:

Everything, no problem. And I can only actually speak to -- because our records in our law file only discuss things that came through our office. So I'll begin by noting that we don't monitor facilities, so that if there are problems at a facility, our office is not aware of it until we're asked to take some sort of course of action, just to begin with that.

In reconstructing the events, we have an October 2nd fax from Health Services regarding the need for a Notice of Compliance, 48-hour Notice of Compliance to be sent out to the landlord. And that same day our office faxed a copy of that, of the Fire Marshal's -- what is it called?

MS. CARBONETTO:

Violation.

MS. DEREN-BRADDISH:

Violation notice to the landlord. The next day the landlord did fax back to our office the same notice of violation indicating that they were, in fact, responsible for the repairs that were going to be required, and we at the same time faxed that same letter to Health Services. On the 4th --

CHAIRPERSON FIELDS:

Can I just stop you right there and ask Wayne when the Fire Marshal's notice first occurred, can we go back to that and say -- you know, explain how that all occurred, starting with the date.

MR. WAYNE JONES:

Well, I have a copy of the Fire Marshal's report. According to that report, on August 17th he was summoned to the building at about -- I remember because I got called at home -- about 3:30 in the morning that a fire alarm had went off at the health center. When he responded to the health center, he had found soot and had noticed at that time that the -- that it came from a boiler up in the roof and that -- he met me, actually, when I walked in the door that morning to say that he would have to shut down that boiler and that were a number of other violations and that he would be back as soon as he discussed it with his boss to do a full inspection of the building.

CHAIRPERSON FIELDS:

Shutting down that boiler would present what to the building?

MR. WAYNE JONES:

I believe there are, if I'm not mistaken, five boilers up there. That boiler had to be -- that would mean that we wouldn't have any heat, basically.

CHAIRPERSON FIELDS:

In August.

MR. WAYNE JONES:

That's correct.

CHAIRPERSON FIELDS:

Did it having anything to do with air-conditioning?

MR. WAYNE JONES:

No, no, it wouldn't have anything to do with air-conditioning.

CHAIRPERSON FIELDS:

Okay.

MR. WAYNE JONES:

It just dealt with the heat.

CHAIRPERSON FIELDS:

How about water, hot water?

MR. WAYNE JONES:

The landlord's representative, Lisa Vierra, had stated that she felt that the puff-back didn't occur due to the boiler, that it was because of the hot water heater, that didn't matter to me.

MS. CARBONETTO:

There's two separate units.

CHAIRPERSON FIELDS:

So it didn't effect the hot water by having the boiler -- okay, go ahead. Sorry.

MR. WAYNE JONES:

No. So there was a heat issue back in August which was brought to the landlord's attention at that time.

CHAIRPERSON FIELDS:

Who brought it to the landlord's attention?

MR. WAYNE JONES:

I do; I notify basically two parties, I notify the landlord and I also notify -- my contact is Ann Marie Carbonetto. So I notified both parties --

CHAIRPERSON FIELDS:

So this was in August that you notified Ann Marie and the landlord to repair the boiler.

MR. WAYNE JONES:

Right.

CHAIRPERSON FIELDS:

Okay.

MR. WAYNE JONES:

My letters tend to get a little bit stronger with time from that point forward, because obviously if it's a problem in August, when the change in weather is going to come we're going to have a bigger problem. The report, if I remember correctly, from the Fire Marshal noted that extensive work needed to be done to all the boilers up there, the burners that needed to be replaced. And one particular boiler was in such disrepair that it could not be put back in service at all. In fact, the Fire Marshal had said that none of the boilers should be put in service until they're all fixed or serviced.

CHAIRPERSON FIELDS:

Does anyone from the Fire Marshal's Office wish to respond to any of that report or information?

MR. HORST:

Sure. That's very simple, we concur, that's exactly what happened.

LEG. HALEY:

Madam Chair?

LEG. FOLEY:

Name, please?

MR. HORST:

I'm sorry. Warren Horst, Chief Fire Marshal Suffolk County Department of Fire, Rescue and Emergency Services.

CHAIRPERSON FIELDS:

Thank you.

LEG. HALEY:

Madam Chair?

CHAIRPERSON FIELDS:

Legislator Haley.

LEG. HALEY:

I'm still not sure where we're going. First and foremost, if we have a boiler that's not used for air-conditioning, we have a boiler that's not used for hot water, why is there a boiler operating in August?

MR. WAYNE JONES:

No, it's not -- well, that's what the landlord was saying, that it wasn't operating, but the Fire Marshal report says that the puff-back came from that.

LEG. HALEY:

Okay. Now, the Fire Marshal report, what specifically is the problems with those boilers in that building that you found that were some sort of a hazard.

MR. HORST:

There are two boilers in the building, each boiler is made up of three burners, every burner in the two boiler units showed signs of deterioration to the point of --

LEG. HALEY:

What do you mean by deterioration?

MR. HORST:

Okay, I will explain that. In some instances there were carbon deposits on the exterior portions, the exterior cabinetry of the burners themselves, and in one instance there was evidence of actual

burn-through from the inside fire box through the external sheathing of the furnace itself, the boiler itself; all indications obviously that the equipment is in a very deteriorated state of condition and shouldn't be operated.

LEG. HALEY:

Okay. So now we have boilers that aren't operating properly, let's fast forward to October 2nd where there was a Notice of Compliance I guess concerning the boilers?

MR. HORST:

Actually, we went back on August 30th I believe was the date and did a complete inspection of the building.

LEG. HALEY:

August 30th?

MR. HORST:

August 30th I believe is the date, and issued a violation notice based on that inspection which included not only the deficiencies noted at the time of the fire but also other deficiencies in the building that had to do with, as an example, the elevators, the use of extension cords, doors that were inoperative.

LEG. HALEY:

So you gave him the whole list.

MR. HORST:

Exactly.

LEG. HALEY:

You did the whole megillah.

MR. HORST:

That's correct.

LEG. HALEY:

Okay. So let's fast forward in the interest of moving things along. We're now in October the 48-hour Notice of Compliance was concerning all of those items or just a couple, a few items?

MR. HORST:

Well, actually, the 48-hour Notice --

CHAIRPERSON FIELDS:

Wait a minute. Wait, wait, I want to interrupt.

MR. HORST:

I'm sorry.

CHAIRPERSON FIELDS:

I don't want to move fast forward here at all because that's in my estimation --

LEG. HALEY:

I know, but I have --

CHAIRPERSON FIELDS:

Hold on, hold on.

LEG. HALEY:

Madam Chair.

CHAIRPERSON FIELDS:

That's what we did in the past, was move forward to say we need to be in this building and let's fly through this lease. This is a problem and what we're trying to iron out at this point is from the first notice of violation, why did it take that long to get some kind of a letter to the landlord? And that's what I wish to find out at this point.

LEG. HALEY:

Right, that's what I'm trying to do, get back to October. Because, you know --

LEG. FOLEY:

Madam Chair? I don't mean to interrupt, Legislator Haley.

LEG. HALEY:

No, I'm not yielding the floor. I'm not yielding the floor.

LEG. FOLEY:

We can talk about a number of --

LEG. HALEY:

I am not yielding the floor.

CHAIRPERSON FIELDS:

Wait, hold it. Since I am the Chairman, we're not going to get involved in an argument at the horseshoe, we're not going to do that. I, as the Chair, wish not to fast forward this.

LEG. HALEY:

I'm not fast forwarding it.

CHAIRPERSON FIELDS:

You just said you wanted to.

LEG. HALEY:

I asked for the floor and you gave it to me. You just finished saying that you wanted to talk about why the Notice of Compliance in October, that's what I'm trying to get back to. Because at the rate we're

going, we're going to be here until six o'clock tonight. I'm willing to cut to the chase to find out why, whether it's the County Attorney's Office, I mean, I have a lot of questions concerning the particular lease that's in place, the one that we have proposed, the remedies involved, and let's cut to the chase and find out what's going on here.

CHAIRPERSON FIELDS:

I'm not willing to cut to the chase. I will go through this for however long it takes and that --

LEG. HALEY:

Well, that's what I'm afraid of. So all right, in finishing my question, going to October when there was a 48-hour Notice of Compliance, my question is at that point you made up a list, right? On August 30th you had a problem with a number of issues; what issues were remaining in October when that Notice of Compliance was sent?

MR. HORST:

I just want to point out that our notice of violation that was promulgated in August is different than the notice that was sent by the County Attorney's Office, that was relative to a no heat situation that I believe was based on the Sanitary Code and not the --

LEG. HALEY:

Okay. So now give us a synopsis, if you will -- and take as long as you want because I have all day -- of what the list entailed on August 30th, where you figure it was at maybe around October and where we are today concerning just your particular jurisdiction.

MR. HORST:

Okay. On the 30th we did the inspection, subsequent to that the violation notice was written and it was sent to the department heads of the affected departments, which would be in this case the Commissioner of Social Services and the Commissioner of the Department of Health Services, as well as copies that were sent to the County Executive's Office, the Clerk of the Legislature, and now I have to cheat and look, the Commissioner of the Department of Public Works, Insurance and Risk Management --

LEG. HALEY:

So in other words, you covered the bases, you got everybody, you made sure everybody was well aware of it.

MR. HORST:

That's correct.

LEG. HALEY:

Okay, thanks. So back to my question, you had a number, you had a list in August.

MR. HORST:
Right, uh-huh.

LEG. HALEY:
So I'm just trying to get an idea. We have an idea the list covered a lot of issues, not only the boilers, it covered extension cords, elevators, so on and so forth. Was there an attempt by the landlord to remedy some of these issues, have they been remedied, have some of them, what's outstanding? Just give me an idea of where we're at.

MR. HORST:
As we speak today, based on that violation notice issued in August, the landlord has corrected all of the deficiencies that we understand they were responsible for and, in fact, most of those had been corrected by the 19th of October.

LEG. HALEY:
Thank you.

CHAIRPERSON FIELDS:
Going back to Wayne, when you first notified the Health Department and others of the problem, would it not be your intent to have those repaired within a certain amount of time of when you asked them to -- you brought it to their attention?

MR. WAYNE JONES:
The intent is to have it repaired in a timely manner. Because it was August and it was summer time, it wasn't an issue of heat at that time. As we got into September going towards October, I then sent memos again to the landlord that this problem needs to be addressed because I'm anticipating cold weather to start soon and I don't want to be caught at the last moment getting these matters fixed. There was a delay of time at which time I then notified again the Department of Health that we needed to take further action because I'm not getting very much cooperation from the landlord's representative in getting this matter addressed and we're going to have a change of weather occurring soon. Lo and behold, I think in October we did have a cold spell that occurred at a time sooner than anticipated where the temperatures in the building did drop at which time I did notify again the Department of Health that given the amount of time that has passed, we need to take stronger action.

CHAIRPERSON FIELDS:
Okay. Ann Marie, the next question I think is going to be for you. You are notified that there was no heat and that there -- I guess you were first notified that there was a problem, then you were notified that there was no heat and there had been a two month lapse, approximately; what did you do with that information?

MS. CARBONETTO:

The first thing I did was I contacted the Department of Public Works and I asked them --

CHAIRPERSON FIELDS:

When was that?

MS. CARBONETTO:

In September.

CHAIRPERSON FIELDS:

What happened in August, though?

MS. CARBONETTO:

Um --

CHAIRPERSON FIELDS:

What did you do with the information in August?

MS. CARBONETTO:

The information -- I believe that I initially contacted the County Attorney just to let him know that we're going to file a violation notice and I sent him a copy of it. He asked me to talk to someone from Public Works, which I did.

LEG. FOLEY:

In August this was?

MS. CARBONETTO:

Excuse me?

LEG. FOLEY:

This was in August?

MS. CARBONETTO:

When I --

LEG. FOLEY:

From what we're hearing from the County Attorney's Office, they didn't receive anything until October, so is it August or is it October?

MS. DEREN-BRADDISH:

Well, I'm just going with what I have in my file.

LEG. FOLEY:

I understand that, Basia, I understand that.

MS. CARBONETTO:

The notice was issued in August, we got it in our office in September and that's when I spoke to someone in the Department of Public Works. I also notified the County Attorney of the violation notice.

LEG. FOLEY:

Was that at the beginning of August or September 1st --

MS. CARBONETTO:

No, it was September.

LEG. FOLEY:

-- or was it September 30th?

MS. CARBONETTO:

September 7th is when we got it in our office, so I assume right after that.

CHAIRPERSON FIELDS:

What happened at that point? You notified them --

MS. CARBONETTO:

The Department of Public Works, they asked me to contact the County Attorney and I told them that I had already sent them the violation notice.

CHAIRPERSON FIELDS:

So the original statement was that you don't -- what was the original statement, that you don't --

MS. DEREN-BRADDISH:

Monitor repairs.

CHAIRPERSON FIELDS:

Monitor. But now we're not into monitoring, we're into responding.

MS. DEREN-BRADDISH:

Well, we didn't receive anything in our office.

CHAIRPERSON FIELDS:

You have to use the mike.

MS. DEREN-BRADDISH:

I don't have any records in our file that shows any request for the County Attorney's Office to take any action, to send a notice. And normally we wouldn't until we see whether there's been any response by

the landlord or DPW investigating it to see whether it would be -- whether we would contract it or go in and do it ourselves if, in fact, we did have to do the corrective work and charge it back to the landlord.

CHAIRPERSON FIELDS:

Ann Marie, did you send them a letter asking for --

MS. CARBONETTO:
Did I send who a letter?

CHAIRPERSON FIELDS:
The County Attorney's Office?

MS. CARBONETTO:
It was verbal. I asked them on the 2nd, I asked them on the 3rd, and I believe he finally, looking at -- issued it on the 2nd. I asked --

CHAIRPERSON FIELDS:
What month are we talking about?

MS. CARBONETTO:
I asked the County Attorney, initially my first phone call to the County Attorney's Office was September 29th, again on October 2nd I asked him, October 3rd I asked him to issue a 48-hour notice.

CHAIRPERSON FIELDS:
Why do you do this verbally?

MS. CARBONETTO:
I did -- eventually I did send him a fax asking him to do it, I had it in writing, but verbally it was the first couple of times.

CHAIRPERSON FIELDS:
Legislator Haley.

LEG. HALEY:
Just process; normally we have a lease, we put a lot of language in there that gives us the opportunity to go in and make corrections if there's problems, so on and so forth, but just process. The Department of Public Works oversees the -- is part of this process, correct, they're really the compliance? You said you called Public Works, DPW.

MS. CARBONETTO:
Uh-huh. Any time there's a --

LEG. HALEY:
Is there function in this situation to ascertain compliance?

MS. CARBONETTO:
When there's a violation notice from the County Fire Marshal, it is Public works' responsibility, as far as I understand it, to -- if it's a county responsibility or a landlord, they fix the County's portion and the landlord fixes his portion of the violations.

LEG. HALEY:
Okay. But that's what --

MS. CARBONETTO:

And it depends on the lease because the lease tells you who's responsible for what.

LEG. HALEY:

I'm just thinking, we've got disjointed responsibilities and I'm trying to figure, under normal circumstances with any lease, someone has to ascertain whether there's compliance of that lease, and if there is or there isn't -- and it depends on the issue. Obviously DPW might be better capable of ascertaining whether an elevator is working or not. But who then is going to be responsible for communicating that to a County Attorney, that there is a problem with compliance and, therefore, notice would be served? And I'm not so sure that's your responsibility, maybe that's DPW's.

MS. CARBONETTO:

I think that's an issue I think that when they got divided, when Space Management got divided, I think that's where the problem happened. Because no one I think thought that --

LEG. HALEY:

We have a systemic problem, then, you're saying.

MS. CARBONETTO:

Yes, yes.

MS. DEREN-BRADDISH:

I just wanted to add that part of the delay -- and if I go through the time line you'll see it's not as long as you might think -- was confirming in our office, one, whether DPW was prepared to go in and do the work if they needed to or whether they would have to contract it out; and two, whether the landlord had, in fact, commenced work, which his indication to us was by a fax that they were waiting for parts and had expected to commence the work at the end of the week. So that a notice of violation wasn't sent out from our office right away because we were told that it was going to commence and that DPW wasn't even going to have to consider going to the site.

Then what happened was it was a three day weekend. When Mr. Dragotta returned to the office he was informed no work had actually commenced on Friday as it was supposed to, so the letter went out when, in fact, it had started on Monday which was Columbus Day and they were finished a couple of days later.

CHAIRPERSON FIELDS:

Legislator Foley.

LEG. FOLEY:

Thank you, Madam Chair. There may be some systemic problems, but we

were -- well, there are systemic problems. But we tried to address that when we approved this lease early in the summer when we had both Ms. Carbonetto and Mr. Jones raise their hands -- in fact, it was the Presiding Officer -- to say that the two of you would ensure, keep us informed, make sure things move forward in a timely manner at that particular location, that if there were any violations or any other problems that this wouldn't be treated in the usual fashion. But in fact, because of the highly sensitive nature and the bad -- and the poor history of the landlord, that the two of you would go through, let's say, take extra steps to ensure that there is timely notice given to the landlord to move ahead with correcting problems as they would occur.

Now, what I want to get back to is August, I don't want to go into Columbus Day. The fact of the matter is, Madam Chair, is that back in August is when the initial violations were made, were noted by the Fire Marshal's Office. What I want to reconstruct, because it's important because we're talking about from the middle of August or the end August and then no work being done really until the middle of October, so we have to get to -- and this is not so much about micromanagement but it's about how this process is supposed to work. If the Fire Marshal's Office and Mr. Jones had sent -- Wayne that is -- had sent notice to the Health Department back in mid or late August that there were problems, I want to know what happened not in the middle of October, I want to know what happened in September, the first week of September. Well, let me just ask Wayne Jones a question again. When did you send the notice to the Health Department that there were problems?

MR. WAYNE JONES:

The day that the Fire Marshal --

CHAIRPERSON FIELDS:

You have to use the microphone.

MR. WAYNE JONES:

I met the Fire Marshal that morning, so a couple of hours later --

LEG. FOLEY:

Okay. Which --

CHAIRPERSON FIELDS:

Excuse me. Could you take the microphone and hold it maybe and then just hand it to each other? It's a lot -- I think it will --

LEG. FOLEY:

Which day was that, Mr. Jones?

MR. WAYNE JONES:

The -- I forgot your name, the Fire Marshal. Well, anyway, I met the

Fire Marshal on August 17th in the morning.

LEG. FOLEY:

Okay, so it was August 8th or so.

MR. WAYNE JONES:

The 17th.

LEG. FOLEY:

The 17th when you notified the Health Department --

MR. WAYNE JONES:

When I know everyone knows.

LEG. FOLEY:

-- of problems, right, of violations at the facility.

MR. WAYNE JONES:

I notified the necessary parties that the Fire Marshal had visited the building and had found several violations.

LEG. FOLEY:

Okay.

MR. WAYNE JONES:

And that there would be a subsequent visit within a couple of weeks, again, when his boss would return for a full inspection of the building.

LEG. FOLEY:

Understood. But as of August 18th, if not on the 17th, you notified Ms. Carbonetto of the problems?

MR. WAYNE JONES:

Ms. Carbonetto and also the landlord, Lisa Vierra.

LEG. FOLEY:

Fine, okay. Give the mike to Ms. Carbonetto, please. As of August 8th, not October 2nd, as of August 8th, what did the Health Department do to try and require the landlord to fix the problems at the facility?

MS. CARBONETTO:

Other than the landlord being -- telling the landlord what was the problem, that's all we did. We were waiting for a violation notice from the Fire Marshal.

LEG. FOLEY:

The fire marshal had a -- I thought --

MS. CARBONETTO:

No, that was a visit. The violation notice wasn't issued until August 30th.

LEG. FOLEY:

But the visit identified problems at the center, correct?

MS. CARBONETTO:

Absolutely, and the landlord was made aware that there were problems.

LEG. FOLEY:

Now, the landlord was made aware that there were problems. Did you speak -- given the nature of the landlord, given the discussions that we had at Riverhead at the time that we approved the new lease.

MS. CARBONETTO:

Uh-huh.

LEG. FOLEY:

Did you speak with the landlord directly to say to fix these problems, not wait for the August 30th visit?

MS. CARBONETTO:

No, I didn't.

LEG. FOLEY:

Why not, given the history of the landlord?

MS. CARBONETTO:

Because it was August and it was warm, that's why. And we didn't know --

LEG. FOLEY:

All right, let's move to August 30th now.

MS. CARBONETTO:

Well, I'm being honest here. We didn't know that these violation notices were actually going -- the County Fire Marshal was going to issue a violation notice.

LEG. FOLEY:

Okay, fine. Let's move now two weeks to August 30th. The violations were sent out, correct?

MR. HORST:

Correct.

LEG. FOLEY:

Okay. Now we're in, let's say, the first week of September; what did the Health Department do in the first week of September now that there

are official violations on record?

MS. CARBONETTO:

I spoke to the Department of Public Works to tell them there was a violation notice coming out. He said he hadn't seen it yet because some of the responsibilities were the County's responsibility to fix.

LEG. FOLEY:

Some.

MS. CARBONETTO:

Some, not all.

LEG. FOLEY:

Did you notify -- now that you have these official notices of violation, given the history of the landlord, did you then directly contact the landlord and say, "You've got to fix these problems"?

MS. CARBONETTO:

I was aware that the landlord had a copy of the violations notice and the landlord knew that they had responsibility to fix.

LEG. FOLEY:

You were aware but you didn't directly call the landlord.

MR. WAYNE JONES:

I did, though.

LEG. FOLEY:

No, that's not -- okay, I understand that you did.

MR. WAYNE JONES:

I had mailed, e-mailed --

LEG. FOLEY:

This place is a special circumstance and a special circumstance to -- and I'm going to say this ad nauseam, it's because of the awful history of the landlord that we required the Executive Branch to take extraordinary steps to ensure that problems that occurred in the past wouldn't happen in the future. And I don't mean to get argumentative, but the fact of the matter is if you, Ms. Carbonetto and Mr. Jones, Bill Jones from Social Services, you're made aware of these notices the first week of September as opposed to being aware that the landlord knows, my point is that, again, you should directly contact the landlord. All right, so you were made aware of that the first week of September.

MS. CARBONETTO:

And I also knew that --

LEG. FOLEY:

What happened between the first week of September and then from what we were told by Basia Braddish, that the County Attorney's Office wasn't officially notified of violations until October 2nd? So what happened in that month's period of time that -- well, what happened during that month's period of time, between the first week of September and the first week of October?

MS. CARBONETTO:

First of all, I want to say that I knew that Wayne had a conversation so, one, I knew the landlord had the violation and I knew that the landlord had been contacted by Wayne, so I wanted to say that. Second, I also knew that DPW had a copy and they were working on their part of their responsibilities.

LEG. FOLEY:

Right.

MS. CARBONETTO:

And I sent a copy to the County Attorney to let him know that there was going to be a problem, just so that he was aware, and I did have a conversation with him.

LEG. FOLEY:

Okay.

MS. CARBONETTO:

And --

LEG. FOLEY:

The County Attorney meaning Mr. Roy Dragotta?

MS. CARBONETTO:

Correct.

LEG. FOLEY:

All right. Was --

MS. CARBONETTO:

And I also had a conversation with --

LEG. FOLEY:

Who spoke with Mr. Dragotta, yourself?

MS. CARBONETTO:

I did.

LEG. FOLEY:

All right. When you spoke to Mr. Dragotta -- this was early September, correct?

MS. CARBONETTO:

Correct. Roy said to me if I had a problem that he would step in, but at this point in time it wasn't his responsibility.

LEG. FOLEY:

Well, who's responsibility was it then?

CHAIRPERSON FIELDS:

Wait, wait, wait. I need to clarify that statement. You spoke to Mr. Dragotta and you said what?

MS. CARBONETTO:

I said to him that there's a violation notice and I said there's -- I sent him a copy of the notice or I told him there was a copy, eventually I did fax him the notice, he said to me it wasn't his responsibility, that if I needed his help he would get involved; that's what he said.

LEG. FOLEY:

Okay.

LEG. HALEY:

At that point.

MS. CARBONETTO:

At that point.

LEG. FOLEY:

So what did we do at that point, Ann Marie?

MS. CARBONETTO:

Then I spoke to Tedd Godek from the Department of Public Works and I said we have a violation notice, he said that he believed that the County Attorney should be the person to follow up with this notice.

LEG. FOLEY:

All right, so one is telling you one thing and another one is telling you another.

MS. CARBONETTO:

Correct.

LEG. FOLEY:

At that point, if you have this kind of situation, do you then notify the Commissioner directly that there's a problem? Now there is a systemic problem where the County Attorney is telling you that it's not his concern, if you will, and then DPW is telling you, well, yes it is the County Attorney's concern. So how did you work through that?

MS. CARBONETTO:

What I eventually did was I told them, the Commissioner's office, that

I was going to ask the County Attorney's Office to issue a 48-hour Notice of Compliance, which I did at the end of September, the 29th in fact.

LEG. FOLEY:

So a few weeks transpired where you're trying to work this thing out.

MS. CARBONETTO:

Correct.

CHAIRPERSON FIELDS:

But on September 29th you asked for the 48-hour notice --

MS. CARBONETTO:

I did.

CHAIRPERSON FIELDS:

-- completed. And then what happened?

MS. CARBONETTO:

Roy was out of the office, I spoke to Garfinkle, Bob Garfinkle, and asked him to issue a 48-hour Notice of Compliance, he said that he needed some information, we just missed each other and, again, on the 2nd of October I asked for another 48-hour notice, Roy happened to be in the office that day and I asked for a 48-hour notice.

CHAIRPERSON FIELDS:

What did he say?

MS. CARBONETTO:

It wasn't issued.

CHAIRPERSON FIELDS:

So just -- it seems to me --

LEG. HALEY:

Madam Chair?

CHAIRPERSON FIELDS:

I'll let you have the microphone in a second. It seems to me that this -- which is what I expected to happen, I asked that Mr. Dragotta show up today because I knew that there would be some problems -- and it seems to me, and I'm going to make this statement, the ball just dropped in Roy Dragotta's lap and he chose to do nothing.

When this lease all came about, some of the statements we made in committee after committee meeting and on the floor was that we did not want to reward a bad landlord. We asked for promises from Mr. Jones and Ann Marie not to let anything happen and, in fact, I spoke to Dave Grier -- he's not here, is he -- and in the hallway when he asked if I

would support this lease and vote for the lease and I said not only had the landlord failed but the County Attorney's Office had failed and if he could promise me that the County Attorney's Office would not fail in the future, that when we have a problem they would be responsive, that maybe I would then support the lease because I did want to see this move forward, and he assured me that that would happen.

However, it looks to me like we have promises that were not kept and it looks very clear to me that Roy Dragotta ignored all of the requests from the Health Department. I don't know if Bill Jones got involved in any of this, but I will -- I know that you want to say something, go ahead.

MS. DEREN-BRADDISH:

Well, first of all, in Mr. Dragotta's offense -- defense, not offence -- we normally as a procedurally matter do not respond to verbal requests. We always request that a faxed request be included when the County Attorney's Office does something, specifically so we can defend it in our file. So I don't know what actually transpired and I do know Mr. Dragotta said that he had received phone calls. However, until he knew that the landlord was not complying, he was not going to take action. We don't monitor to see whether -- we don't call up to see whether the landlord is doing what he's supposed to do. In this case, on the 2nd when we did receive the faxed inquiry, Mr. Dragotta did make contact with the landlord, with DPW, he did see who was going to be doing the work. When he was informed that the landlord intended to do it and was waiting for parts, he did hold off for two days, but that's a matter of policy.

And in defense of everybody, the whole system is a little screwy because I just came into it and I can tell that it's very disjointed and there have been a lot of meetings in the past 10 days to develop a procedure for handling exactly this type of situation because -- and it's been our position, we aren't -- our office is not going to monitor facilities, we don't have the staff to do it. And the only way we can take action and issue such a notice is we have -- if we are in possession of background information that shows that there's been non compliance and that DPW is informed of that non compliance and is prepared to take action, because if we issue a 24-hour notice or a 48-hour notice and we're not going to go and do anything, it's useless, it's an empty threat. So that does take some time period. And in these discussions, and unfortunately as a result of this situation, we've discovered that everybody has got to come on board earlier so that we can develop a record to deal with it. But it was very disjointed.

CHAIRPERSON FIELDS:

Just to clarify that, I think everyone was notified in August through the Fire Marshal's Office that we had a problem and that we should be on board and that this should have been repaired.

I just want to point out on a personal note, if any one of us didn't have heat for, Wayne, three weeks?

MR. WAYNE JONES:

About that.

CHAIRPERSON FIELDS:

For three weeks, that would be totally unacceptable. And unless you're I guess, subject to that personally no one cares, and what we're showing here is nobody cares. Legislator Foley.

LEG. FOLEY:

Yeah, thank you. Ms. Braddish, I understand your point that you say Mr. Dragotta wasn't officially notified by writing until early October; is that not correct?

MS. DEREN-BRADDISH:

Yes.

LEG. FOLEY:

Okay. And that over the past ten days there's been discussions on how to correct this systemic problem; is that not correct?

MS. DEREN-BRADDISH:

Yes.

LEG. FOLEY:

Okay. You weren't -- at the time, this wasn't your area of responsibility over the summer time. And given the fact that, again, we know the history of this landlord, it shouldn't be the last ten days -- and I'm not criticizing you, but this has been an ongoing space managerial problem that the management side of government has had to deal with, and it shouldn't have taken only the last eleven days to look at this. The fact of the matter is when this Legislature put the Executive Branch on notice about this landlord and about how things needed to be done differently in the future, that over the summer time there should have been some -- Madam Chair, some kind of streamlining, some kind of coordination of interdepartmental cooperation to ensure that there would be a timely response to the problems at hand.

I hope that one of the lessons learned here, and I mean this respectfully, with this -- in this occasion or any other, that instead of giving let's say verbal notices to different departments, that the moment, the moment the Fire Marshal sends notices of violations to the Health Department, to the County Attorney's Office, to the Social Services Department, to whichever the managerial departments that are involved, that this should be an SOP, a Standard Operating Procedure, that the moment you receive that violation, that

that triggers an automatic paper trail, not phone calls but automatic letters sent either by the Health Department or by Social Services to

the County Attorney's Office or DPW, whoever is supposed to get these things immediately but get it by mail as well as by a phone call so people can't say, "Well, I'm not going to do anything. Even though I got a phone call, even though I'm aware of it, I really can't do anything until I get a letter." I mean, the way that I work in my office is that someone might say to me, "Well, you know something, I've got this problem," and I'll say to them, I won't wait a month, I'll say, "You know what? Why don't you put that in writing immediately and give it to me, then we'll see what we can do about it", in the meantime I'm working on it.

So the fact of the matter is this is very simple, 101 Public Administration, this is not intricate managerial issues here. That when a notice of violation goes out, that should -- given the history of this landlord, that the Health Department, Social Services should have immediately on August 8th -- I'll even say -- I'll give you the benefit of the doubt, September 2nd the letters go out, not on September 29 but September 2nd the letters go out where everything is on record, that triggers the whole response of the 48-hour notice. And I think the lesson here, Madam Chair, is that verbal orders don't go, it's got to be in writing.

And secondly, given the history of this landlord, we had also extracted a promise that we as members of this Health Committee would also be notified, not something sent to the Clerk's Office where it's filed away, but that whether from -- by both the Health Department and by Social Services, that this Health Committee and Health Committee members at that time would also have been flagged immediately of these problems, given the history of the landlord.

CHAIRPERSON FIELDS:

I just want --

LEG. FOLEY:

If I may finish.

CHAIRPERSON FIELDS:

Go ahead.

LEG. FOLEY:

That to me is what should have happened, there was clearly a breakdown in the management system of -- a breakdown of the management of our contracts. And as one Legislator who had given conditional approval back in June or May when we approved this thing, it was my clear understanding that this particular landlord, given his history, would be treated in a different manner, in a more responsive way to ensure that he would move ahead with what needed to be done, as opposed to

having these contradictory responses from different departments as to who was supposed to notify whom, that one person can't move until they're told in -- until they read it in writing as opposed to being told over a phone. I won't call it a comedy of errors, I'll call it a series, lapses of judgment, a series of mistakes that ended up resulting in three weeks where County workers had to work under awful conditions, and not only County workers, also those who they serve.

So, you know, we need to know the step by step problems that occur here so they won't happen in the future. So whether today, Madam Chair, or at your next meeting, I would like to hear from the parties involved as to how they will ensure, ensure that this same series of mistakes won't happen again.

CHAIRPERSON FIELDS:

Legislator Foley, I just quickly, before Legislator Postal speaks, want to read a little excerpt from the Ways and Means Committee meeting of May 22nd, 2000. A question was asked by Legislator Levy at the time regarding penalties over and above the normal remedy available, and you were involved in some of the questioning.

Legislator Foley said, "I would just state, Mr. Chairman, that since the request was made by the Executive Branch to put these in writing, that at the very least for this committee, out of respect to the Chair and respect for the committee and respect for this process, that the answers should have also been prepared today in writing so that those of us who are here could look at these notes as we're readying ourselves to ask some questions."

Mr. Dragotta answers to some other questions, did -- speaking to Mr. Grier, that Mr. Grier said, "As far as question one is concerned, what we have initially changed the lease to require is that for emergency repairs to be done within 48-hours on notice which means a phone call as opposed to in writing, and that if they don't complete the repairs in that time frame we can do the repairs ourselves and charge them back those costs. What we're also intending to do is add language to the lease which would require that not only emergency repairs in 48-hours, but ordinary repairs within five days that they, we, be able to charge back the costs of those repairs if they're not done within that time frame and, in addition, charge back the County's actual administrative costs associated with affecting that repair which would include any overtime as far as staff and items such as that which would be incurred as a result of having to do that ourselves. So that's an additional recompense for the County in the event that they do not do the repairs on time."

LEG. FOLEY:

Clearly, Madam Chair, and we should hear from the panel, that five day notice for non emergency repairs, that five day time frame was not invoked in this occasion.

CHAIRPERSON FIELDS:

None of the promises that were made, none of the -- I mean, I don't even know why we have minutes, you know, or why we make statements or why we ask questions. We're told certain things are going to be done and then they're not done and then no one is responsible, no one is accountable.

Mr. Jones, let me just ask a quick question and then I'll go to Legislator Postal. Were you aware of all of this?

DEPUTY COMMISSIONER JONES:

Yes, Madam Chair.

CHAIRPERSON FIELDS:

Did you do anything in writing?

DEPUTY COMMISSIONER JONES:

From our department, no. It is -- in the relationship that we have with the Health Department and to our great benefit in the Department of Social Services, Wayne Jones and Ann Marie have been really the people responsible for the overall building here and they have done a great job. As you can tell, it's disjointed enough without our department, you know, chasing all of their efforts. That's not said to run from the fact that I hear what you're saying with regard to our responsibility to be a part of that process and we were to the degree that we are e-mailed by Wayne on all of these issue as well as receiving copies of the violations and all of Ann Marie's correspondence.

And I will say that I had verbal conversations with regard to some of these matters, not all, with the County Attorney and also with the landlord, but nothing in writing.

CHAIRPERSON FIELDS:

And you made a promise that this would never happen also. Legislator Postal.

LEG. POSTAL:

I think it's clear that what needs to come out of this, and Basia said the procedures are now being established, there needs to be a very clear cut set of procedures that not only is established but that somebody at each point has the responsibility of following up on. Because, I mean, obviously whether it's Roy Dragotta or Basia or whichever attorney, I don't think it's necessarily the attorney's responsibility to check to see if you got a response from a landlord, there needs to be somebody else who does that.

So I really think that there's a need to establish not only procedures for leased property, but procedures for concessions, procedures for County owned space where we have a problem with heat or we have a

problem with safety conditions at County owned space, there needs to be something in place. And I would suggest to not only the Chair of this committee, but to a number of different committee chairs, for example, Public Works, Legislator Guldi, the Chair of Ways and Means, that there be a report made to those committees on what the procedures are that are established, and I would hope that those procedures are established really fast.

CHAIRPERSON FIELDS:

In writing.

LEG. POSTAL:

Yeah. And I think they have to be written down and at every step of the way there needs to be somebody accountable for following through and checking back and what if and what's the next step and what's the next level. You know, this has been -- and this is true not only with this issue, I mean, I remember similar issues having to do with contractors who do work on County buildings and where there are problems at work that's not completed properly. But I think what needs to come out of this is some kind of routine -- a list of procedures that makes sure that nothing like this happens again, whether it's a Health Center or a Department of Social Services Center or a golf course or a police substation, that there's some kind of procedure in place so that we know that that's not going to happen.

I also think that there needs to be some kind of procedure for dealing with contractors and landlords who don't respond. Because it's one thing to go and do the work and then charge back but, you know, it's another thing if it's just a willful disregard of what needs to be done so that maybe it's not work that needs to be done. I mean, I've been dealing with this with my office for years and, you know, it's one thing if the snow isn't plowed and, you know, it's too late by the time the County finds out that we were walking through ice for three days. There needs to be some kind of punitive procedure in place that makes it disadvantageous for a contractor or a landlord to do the kinds of things that have been done.

I have a question, though, with regard to the boilers. Was the landlord responsible for replacing the boilers in the negotiation process that led to the new lease?

MS. CARBONETTO:

He was going to replace the entire HVAC system.

LEG. POSTAL:

That's what I remembered.

MS. CARBONETTO:

Yes.

LEG. POSTAL:

And when was he -- was there a time frame --

MS. CARBONETTO:

During the construction.

LEG. POSTAL:

Give me a date. You know, when you say during construction, what are we talking about; when were they to have been replaced?

MS. CARBONETTO:

By November?

MS. DEREN-BRADDISH:

I don't know the schedule

MS. CARBONETTO:

See, I'm not sure because I don't think he was going to put them in the penthouse, I thought he was going to put roof top mounts. So he might -- the whole extra 10,000 square feet might have had to be --

LEG. POSTAL:

Well, I'm just curious about who was responsible for making sure that -- you two individuals, were you responsible for making sure that he did -- Maryann and Wayne, that -- Ann Marie and Wayne, sorry.

MS. CARBONETTO:

It's okay.

LEG. POSTAL:

That happens at my office all the time.

LEG. FOLEY:

It wasn't Wayne, it was Ann Marie and Mr. Jones, Bill Jones, those were the two.

LEG. POSTAL:

Oh, okay. So these two individuals were responsible for making sure that he did what he was supposed to do at the time he was supposed to do it.

MS. CARBONETTO:

Correct.

LEG. POSTAL:

Are there any other things he hasn't done at this point that he was supposed to do?

MS. CARBONETTO:

He hasn't started construction, he was supposed to start in November.

LEG. POSTAL:

So what are we doing about it?

CHAIRPERSON FIELDS:

That's a whole -- that's the next step.

LEG. FOLEY:

We're going to get to that in a moment.

CHAIRPERSON FIELDS:

We want to just establish this.

LEG. POSTAL:

Okay, all right.

LEG. FOLEY:

We're still in the year 2000.

LEG. POSTAL:

Okay. I just think that -- you know, and I would suggest to the Chair of this committee, the Social Services Committee, the Public Works Committee, the Ways and Means Committee, that at some point in the very near future I would suggest -- certainly within the next committee cycle, that there be a report made to each committee about a procedure that has been put in place to address all of these issues.

CHAIRPERSON FIELDS:

Just a quick question.

LEG. FOLEY:

Just on Legislator Postal's point.

LEG. HALEY:

Madam Chair?

LEG. FOLEY:

If I may. She makes a very good point about procedure. I think the record should reflect that what the Chair had mentioned earlier, there was a -- at least in this case, given the history of the landlord, there was a procedure embedded into the contract where there was supposed to be emergency repairs within two days, non emergency repairs could be made within five days. And so at least in this case those procedures were in place --

LEG. POSTAL:

But nobody followed up on them.

LEG. FOLEY:

-- but the procedures weren't followed up.

MS. DEREN-BRADDISH:

Okay. Brian, just real quickly.

LEG. FOLEY:

And if I could just hand it over to the Chair for a second. Before we hear from the County Attorney's Office, I would like to ask through the Chair why wasn't the five day non emergency notice portion --

CHAIRPERSON FIELDS:

Okay, go ahead.

LEG. FOLEY:

-- that you had read into the record --

LEG. HALEY:

Madam Chair?

LEG. FOLEY:

-- was not followed through.

CHAIRPERSON FIELDS:

All right. Hold on one second. Legislator Haley.

LEG. HALEY:

Thank you. Talk about disjointed. In all due respect, Legislator Postal, I think what you're attempting to do is create more of a problem when you have all of these committee chairs all of a sudden starting to look at procedures.

Facilities management is a very simple process, and I speak from a level of expertise because that's what I do. I have handled facilities, I have dealt with landlords, I have dealt with leases, I have done all of this. It's a very simple process. The only failure I think here was that we had a higher expectation of people in the various departments. We create a lease, there's an expectation of the landlord. The only people that have the expertise in the operation of facilities in my view in this County is probably the Department of Public Works. The Department of Public Works should simply be involved with compliance in every facility whether leased or owned, okay, whether it's day care or whatever --

MS. CARBONETTO:

At one point in time they were.

LEG. HALEY:

Well, this is really like -- this is Facilities Management 101, all right. Somebody has to ascertain compliance because only then can you go to the County Attorney's Office -- the County Attorney doesn't know whether a boiler should be fixed or shouldn't be fixed or anything. Somebody with a level of expertise has to be able to tell the County Attorney's Office, "We do not have compliance." It's incumbent upon

the Health Department or the Social Services Department, when they have problems with one of their facilities, to make sure that that information is communicated, and obviously it should be in writing.

But the problem you have in this particular circumstance is you have a lease which it's spelled out, whether it's five days for normal repairs, but then you have a notice of violation. Perhaps that gentleman, the notice of violation, their requirements might be that that has to be cleared within 30 days, certain violations, if they're a safety value, maybe they have to be done immediately, 24-hours, 48-hours, maybe they have 30 days. You know, I know that when you see violations in a town, sometimes it could take you six months to get to a point where you could force somebody to do something. But -- I just want to finish. It's real simple, let's not reinvent the wheel. Let's just come up with a compliance officer, all right, whether it's -- and I think it should be out of DPW who everyone can go to and simply ascertain compliance, and if not there's no compliance because you have to delineate what's the difference between County responsibilities which normally would be handled by DPW and whether it would be landlord responsibilities. Once that's ascertained it's really simply, notice to landlord to comply which can come from a compliance officer, and in absence of that compliance, then you seek your remedies in the lease with the County Attorney's Office.

I don't know what the big deal is. Well, I know what the big deal is, the big deal is that we don't have a process. It's a very simple process that doesn't require a whole lot of procedures made up for various committees or various departments, it's pretty simple; leave the responsibility for the operation of facilities with the Department of Public Works and make sure that each and every division in this County knows for the operation of their building when they have a compliance problem they go to one office, one department or one person.

CHAIRPERSON FIELDS:

That would seem common sense, but we have a history of that going on with this particular building and that was why we went through this process in the committee regarding whether or not we would even approve this lease. Because none of that had occurred, none of it had been done, and we thought maybe that when we brought it all out and didn't approve the lease and were asked and begged and pleaded with by Phyllis Garbarino and Bill Jones and everyone else to please approve the lease, they needed to get into it, but none of that was done.

LEG. HALEY:

Madam Chair, that's looking forward. But what my concern is --

CHAIRPERSON FIELDS:

No, that's looking back.

LEG. HALEY:

No, you're looking forward in the new lease. But looking back, I have yet to establish, other than finally on October 2nd when there was a 48-hour Notice of Compliance, I would imagine that all those violations that were levied on August 30th, some of those violations typically would give them a time frame within which to comply and it may have been consistent with the lease because the old lease probably doesn't have the new type of language we'd like to see. So there may have been compliance by the landlord on a number of issues with the exception of the boiler when there finally was something that was not complied with and that notice was, in fact, given to the County Attorney's Office, right, and then there was a notice issued.

CHAIRPERSON FIELDS:

Excuse me, Legislator Haley. I believe the new lease began in July.

DEPUTY COMMISSIONER JONES:

No.

CHAIRPERSON FIELDS:

It did not? It was signed in July.

MS. CARBONETTO:

Just the construction.

MS. DEREN-BRADDISH:

Actually, the new lease isn't in effect until May 1st, 2001 if there's substantial completion, otherwise it's upon the substantial completion of the new facility.

CHAIRPERSON FIELDS:

Why were we asked with a CN to approve the lease if it wasn't -- if the new lease doesn't -- I don't understand.

MS. DEREN-BRADDISH:

Um --

CHAIRPERSON FIELDS:

This came in with a CN that we had to approve this lease, that it was very important. I don't understand why it wouldn't be effective yet.

MS. DEREN-BRADDISH:

I don't know. My guess would be that the landlord wouldn't proceed with any construction or plans or architectural plans, he wasn't going to invest the expense unless he had a contract. But that's only -- I don't know if that's true.

CHAIRPERSON FIELDS:

So in other words, we should sign -- we should approve the lease with a CN to help the landlord, but none of the things that we wanted to

have completed should be responded to quickly, only he should get things done quickly but we shouldn't have anything done quickly.

LEG. HALEY:

That's what my point is. The only thing that I could see through all of this conversation is there was a failure to comply on -- was it one issue which was the boiler? Everything else obviously was complied with based on the existing lease, based on the existing violations.

LEG. FOLEY:

We still don't know that because the County Attorney who was handling it at that time, neither Mr. Dragotta or Mr. Grier are here and Ms. Braddish is the only one who's here.

LEG. HALEY:

We know that as of October 19th all the violations were cleared, we know that.

CHAIRPERSON FIELDS:

But the notice was given October 2nd, right?

LEG. HALEY:

Right, the notice --right.

CHAIRPERSON FIELDS:

So it took from the 2nd to the 17th?

MS. DEREN-BRADDISH:

The 11th the notice was issued, the 11th.

LEG. HALEY:

The 11th of October. And what was that notice about, the boiler?

MS. DEREN-BRADDISH:

Forty-eight hour notice on the boiler, yes.

LEG. HALEY:

Boiler. Does this -- is there any other issues -- now, nobody's brought up any other issues in October that were, in fact, noncomplied with, only that single one which was somebody looked at it, compliance, and in this case maybe it was Ann Marie who contacted, all right -- and it should have probably come from DPW -- contacted the attorney, the County Attorney's Office and said, "We have one issue that doesn't have compliance." Once you enacted that, he obviously complied by October 19th, if not sooner; correct?

LEG. FOLEY:

Legislators --

LEG. HALEY:

So we're only talking about one issue right now. Because under the old lease and under old compliance rules or paragraphs that are in the lease, he was notified via violations or letters and he complied with those issues. Now, the thing is that maybe he didn't comply as fast as we would like him to, but he may have complied in a manner consistent with what he was required to do based on violations that were issued

or based on his existing lease. So now we say looking forward we're now going to create a lease with this particular landlord, we're now going to accept the norm, we're now going to say five days for normal repairs, so on and so forth. But going back, it was resolved, it was resolved consistent with the existing lease, consistent with the normal violations, all right?

I'm not defending the landlord but I'm saying that I don't think this was as terrible as everybody paints it to be. I know we have a history, perspective we've created a lease that's going to make it work that much better, he did comply when he came up with a Notice of Violation. I think the system to some extent worked because when you go from August 30th for a boiler that you don't really need, okay, to all of a sudden 30 days later and you have to whack him, that happens in every day life with facilities management. You know, sometimes it is crisis management. So it's a very narrow problem and I think it's resolved in the future regarding the new lease with this gentleman.

LEG. FOLEY:
Madam Chair, if I may.

CHAIRPERSON FIELDS:
Okay, and then Bill Jones would like to say something.

LEG. FOLEY:
Right, if I may. Legislator Haley, we can't determine, and neither can the County Attorney who is here today, we can't determine right now whether or not he was operating under the old lease or the new lease. That -- we can't make that determination today.

LEG. HALEY:
Yes they can.

MS. DEREN-BRADDISH:
The 48-hours exists, the five hour -- the five day doesn't exist.

CHAIRPERSON FIELDS:
On the microphone.

LEG. FOLEY:
You've got to use the microphone, please.

MS. DEREN-BRADDISH:

The 48-hour notice was a provision that's pretty standard in all our leases.

LEG. FOLEY:
Right.

MS. DEREN-BRADDISH:
It's the five day for regular repairs that is a new term in the lease.

LEG. FOLEY:
But the fact of the matter is -- and again, you weren't privy to the conversations at that time.

MS. DEREN-BRADDISH:
Right.

LEG. FOLEY:
But when I and others had spoken with what they call the new manager of the properties for the landlord, he had given us every indication, Madam Chairman, and impression that he was going to do things far differently than was done by the prior managers of that particular space. And just to answer -- not to answer but to amplify what Legislator Haley had mentioned, the time frame isn't from October 2nd to October 19, I would respectfully differ with that, the time frame is from August 8th to October 19, and that's a two month period of time, and we can only look at the results of the delays in fixing the problem. The results of the delays were the fact that for over two weeks County workers were working in awful conditions, as were those who needed the services in that building. So it really isn't so much from October 2 to October 19, but it's from, I would suggest, from August 7th -- August 17th, rather, to October 19.

But whether we're operating under the new lease or the old lease, the fact of the matter is the new management for the landlord had hold us at the Ways and Means meetings and had told us at the General Legislature meetings that he was going to operate far differently than the prior management firm for that property.

LEG. HALEY:
And did you give him that same advice that he should get it in writing? Okay, because no matter what anyone says, at the end of day it's what's in the written lease and whether or not he's complying, all right. And it's very easy to ascertain --

LEG. FOLEY:
Yeah.

LEG. HALEY:
I mean, it's real easy to ascertain because we don't have a lease, we don't do business with a landlord without having a written lease. So

we know there's a lease in place today, we know there was a lease in place in October and we know perhaps there's been agreement for a lease to take effect at a later date which is in May, right; the new lease takes effect in May?

DEPUTY COMMISSIONER JONES:

Or upon substantial completion of the facilities.

LEG. HALEY:

Or upon -- so obviously we're on the old lease.

LEG. FOLEY:

Right.

LEG. HALEY:

Under the old rules, okay, which he may have, in this particular instance, on August or September or October may have complied with ninety, 95% of the problems within a normal timely fashion, in absence of written language in the contract.

LEG. FOLEY:

Right. Clearly, what this committee has discovered and has been admitted to on record today, Madam Chair, is that there's a breakdown in how the administration manages the space or manages buildings within our County, that's number one.

Number two, some of us may find distinction between repairs and replacement. It's my suspicion that the landlord did not want to incur additional costs in replacing things that should have been replaced as opposed to repair. And even though it hasn't been stated --

CHAIRPERSON FIELDS:

Mr. Dragotta actually did say that to me on the telephone.

LEG. FOLEY:

He did.

CHAIRPERSON FIELDS:

Yes.

LEG. FOLEY:

All right. So my suspicion then is correct, that there may have been some semantic issues on whether or not they would repair as opposed to replace. My suspicion is that the landlord did not want to incur any more costs on the old lease until he triggers the new lease. And that -- to my way of thinking, that violates the understanding that we were given, that was given to us by the new manager for the landlord as well as violates the spirit of what was discussed between us and the County Attorney's Office.

CHAIRPERSON FIELDS:

Can I just ask somebody from the County Executive's Office -- you don't have to get up, but if you can answer the question -- why we were presented with a CN to have this lease approved?

MS. GODSMAN:

I will be back.

CHAIRPERSON FIELDS:

Okay, I didn't know whether you had -- oh, you're going to go get -- okay, thank you. Bill, were you finished?

DEPUTY COMMISSIONER JONES:

Yes.

CHAIRPERSON FIELDS:

Ann Marie?

MS. CARBONETTO:

I just want to say, Legislator Foley, that the breakdown in communication isn't necessarily with the County-owned facilities because I think there's a defining line there. We understand that it's our responsibility to fix it, DPW understands their responsibility and the department understands their role. Some of the leased facilities is where we have the gray area.

LEG. FOLEY:

The issue is with leased facilities.

MS. CARBONETTO:

Yeah.

LEG. FOLEY:

Okay. And when will that be ironed out?

MS. DEREN-BRADDISH:

Actually, we're in the process of drafting procedures right now --

LEG. FOLEY:

Very good.

MS. DEREN-BRADDISH:

-- with the County Executive's Office.

LEG. FOLEY:

Oh, by the way, before we forget. There was an issue of -- when we were at the Space Management meeting, at our last Space Management meeting, Madam Chair, I had brought up this issue of a demand letter being sent to the landlord. And Ms. Braddish at that time mentioned to the County Attorney's Office was putting together a demand letter and was going to send it two days after that meeting.

CHAIRPERSON FIELDS:

Do you have a copy of that?

LEG. FOLEY:

Do you have copies of the demand letter, if you can give it to the committee?

MS. DEREN-BRADDISH:

I have --

LEG. FOLEY:

And have you received a response yet?

MR. POLLERT:

I have a copy if you need one.

MS. DEREN-BRADDISH:

We haven't received a response, we gave ten days for a response.

CHAIRPERSON FIELDS:

Okay.

MS. DEREN-BRADDISH:

For them to respond to --

CHAIRPERSON FIELDS:

Wait, wait, wait. Could Fred give a copy of that letter and have that letter read out loud now so that it can be in the minutes that that letter was sent and the date that it was sent.

LEG. FOLEY:

Do you have an extra copy so we can read it, too?

MS. DEREN-BRADDISH:

I can get copies.

LEG. FOLEY:

Mary, could we please make copies of that?

MS. DEREN-BRADDISH:

I'm sorry, I thought you had them. It was sent January 22nd and it's addressed to Michael Puntillo.

"Dear Mr. Puntillo: "

"It has come to the attention of this office that in addition to recent repair and maintenance problems at the above referenced premises, new construction has fallen well behind schedule. Indeed in reviewing the status of this project, grave concern has been raised

regarding the lack of any actual progress on the agreed upon improvements to the subject premises. Failure to commence work on the new construction outlined in the first amendment to the lease agreement, combined with the poor conditions which seem to chronically plague this facility, has diminished our confidence in your ability and commitment to comply with the terms of the first amendment to the lease. Pursuant to the terms of the first amendment to the lease, the construction described in the plans and specifications is to be substantially completed within 450 days of the full execution of the amendment (July 21st, 2000 or about November 1st, 2001)."

"In light of these facts, we are requesting that you immediately contact Mr. Richard LaValle" -- and I misquoted his title, so excuse me -- "of the Department of Public Works for the purpose of devising a revised construction schedule. Mr. LaValle may be reached at" and the phone number. "In addition to developing a revised work schedule, the Department of Public Works intends to assign a representative of the Buildings and Construction Division for the purpose of monitoring construction progress as well as general conformance with the plans and specifications."

"The County is dedicated to providing its residents with adequate health centers. Your cooperation in addressing the concerns that have arisen in connection with this facility, both with regard to existing operating conditions as well as with the new construction, is necessary to ensure our future relationship. If you are unable to provide facilities in the condition and within the timeframe agreed upon, we will have no alternative but to pursue any and all legal remedies available."

"Should you have any questions or comments regarding this matter, you may contact the undersigned," me, "or discuss them with Mr. LaValle when you contact him. It is expected that you will satisfactorily address this matter within ten days of your receipt of this letter." The letter was dated January 22nd.

LEG. HALEY:

I have a question. Is there a time line set forth in the contract with this landlord?

MS. DEREN-BRADDISH:

He has fallen behind on the original time line, so that he is --

LEG. HALEY:

Can you be specific?

MS. DEREN-BRADDISH:

Phase I should have been just about complete by now and --

LEG. HALEY:

Again, what's in writing and what's --

MS. CARBONETTO:

No, 450 days from the time that the lease --

LEG. HALEY:

So 400 -- see, that's what I don't understand. If the only time line requirement we gave them was 450 days --

MS. DEREN-BRADDISH:

Four hundred and fifty days, yes, that is the only set date.

LEG. HALEY:

That's crazy to do something like that. I mean, therein is our failure as a County. You know, how are you going to enforce that? How are you going to go to court and say you know, and the guy says, "Well, I can do it in the last 30 days, or the last 120 days." How are you going to effectively enforce that when you haven't established a time line? I know what the letter says; in all due respect, it says very little, okay, because you don't have a remedy. To try to enforce some sort of compliance when you gave him 450 days without looking and measuring specific things that have to take place on either a 30 day basis or 60 day basis.

CHAIRPERSON FIELDS:

Why was this letter sent?

LEG. HALEY:

I think somebody asked them.

MS. DEREN-BRADDISH:

We were requested --

CHAIRPERSON FIELDS:

I want the County Attorney's Office.

MS. DEREN-BRADDISH:

The County Attorney's Office was requested to send the letter because there was concern that there was a lack of progress on the project.

LEG. HALEY:

By whom?

CHAIRPERSON FIELDS:

By whom?

MS. DEREN-BRADDISH:

I know it came out of the Space Management Committee, but I think I was requested prior to that to do --

LEG. FOLEY:

Yeah. Just --

CHAIRPERSON FIELDS:

And I also spoke to Dave Grier and asked --

MS. DEREN-BRADDISH:

Okay.

CHAIRPERSON FIELDS:

You know, I did request it verbally.

MS. DEREN-BRADDISH:

Okay.

LEG. FOLEY:

See, they responded to that, good. But we also brought up at the Space Management meeting where I had asked Space Management to send a demand letter along the same lines, and that's when Ms. Braddish who was there mentioned that two days afterwards that she would be sending this letter out. But Madam Chair, this is really about the Phase II portion of the committee discussions about the expansion. I know that we're still focusing on what had happened last year, so I don't know whether we want to get into this right now or whether there's any other questions about the problems with the building last year. Are we now to move into Phase II of discussion or are there still issues from last year?

CHAIRPERSON FIELDS:

We're going to go into Phase II, but I also want to ask Wayne Jones a question that I don't know that the whole committee is aware of. I was not brought -- this was not brought to my attention that I recall in all of the meetings that we had. This facility does not have water, County water, it has a well?

MR. WAYNE JONES:

Yes, it does have a well.

CHAIRPERSON FIELDS:

So, therefore, the people who work there cannot, should not maybe, drink the water. And the clients who go there are, I'm sure, not told that there's a well and that, you know, we don't know the condition of the well. But also --

LEG. HALEY:

They must know the condition of the well.

CHAIRPERSON FIELDS:

The clients? How would the clients know that it's not --

LEG. HALEY:

The water is okay?

CHAIRPERSON FIELDS:

No, no, I'm just saying, it's just a fact that they don't know and we don't know what people are drinking. But also, did we have a failure in the well sometime over the last several months where there was no running water?

MR. WAYNE JONES:

To answer the first part of your question, we do have well water and we do use bottled water. There are no water fountains in the building, we do have water fountains throughout the building where bottled water is put in on a daily basis. There was a failure, I believe it was May, with respect to the pump which is outside in the well had failed. Water pressure had dropped, it had dropped at -- I believe it was on a Friday with total failure on a Saturday; again, the landlord was notified. What I did at that time was to basically put us into an emergency procedure where I contacted the person who supplies the bottled water and tripled our supply to continue operating.

CHAIRPERSON FIELDS:

Okay. Let me ask one question; when you don't have water, how do you flush a toilet?

MR. WAYNE JONES:

We use the bottled water to flush the toilet.

CHAIRPERSON FIELDS:

Would that not be a problem with the Board of Health?

MR. WAYNE JONES:

I really don't know. What I did was I had the janitors go around to all the toilets and flush the water several times per hour just to make sure that we had no problems as far as sanitary and to ensure the cleanliness of those bathrooms when they did flush the water.

CHAIRPERSON FIELDS:

And when -- I know as a member of the Board of Health, we've had the question of restaurants actually closing the hot water faucet off so that you can't wash your hands with hot water, but to me this would be a problem with being able to wash your hands.

MR. WAYNE JONES:

We had water in all the bathrooms again.

CHAIRPERSON FIELDS:

But not hot water.

MR. WAYNE JONES:

Not hot water, no, we had cold water.

CHAIRPERSON FIELDS:

How long did it take to correct that problem?

MR. WAYNE JONES:

That unfortunately took another, I think it was a week or two because there were problems with getting the --

MS. CARBONETTO:

Parts.

MR. WAYNE JONES:

Well, the first part of the problem was getting the pump out of the ground, it had been there for a very long time.

LEG. HALEY:

Madam Chair?

MR. WAYNE JONES:

The pump that was in the ground was very difficult to remove. They had to --

MS. CARBONETTO:

They had to actually get it out of the well.

MR. WAYNE JONES:

Right, they had to pull it out of the well, that took a couple of days because they had to first use acid to soften it, pull it out of the ground. And then since the part was in another state, that was flown in overnight for the next day, then there was a process of neutralizing what was dropped in to loosen the rust, sink the new pump down into the ground and then get the water working.

CHAIRPERSON FIELDS:

Legislator Haley?

LEG. FOLEY:

Was this brought to our attention when we were deliberating the new lease?

CHAIRPERSON FIELDS:

This was -- as far as I know, no one ever told me that we did not have Suffolk County water in that facility.

LEG. FOLEY:

Not only that, but it's a violation, it's a breakdown.

MR. WAYNE JONES:

It is part of the lease and written in the lease for them to connect

to the County water system.

CHAIRPERSON FIELDS:
Legislator Haley.

LEG. HALEY:
Thank you. You have well water now.

MR. WAYNE JONES:
Yes.

LEG. HALEY:
Is that water okay, I mean, can you drink it?

LEG. POSTAL:
Has it been tested?

MS. CARBONETTO:
Yes.

LEG. FOLEY:
Yeah, has the Health Department tested the water?

MS. CARBONETTO:
Yes.

LEG. HALEY:
Right. So the only reason you would have bottled water --

LEG. FOLEY:
What were the findings?

LEG. HALEY:
-- is maybe it's not as palatable as the water that comes from that well.

LEG. FOLEY:
Does it meet the drinking standards?

MS. CARBONETTO:
Yes.

LEG. HALEY:
I'm going there, thank you.

LEG. FOLEY:
I'm sorry, Marty.

LEG. HALEY:
I know, but you know what the problem is, Brian, is you apologize

every time you do it.

LEG. FOLEY:

All right.

LEG. HALEY:

So the other question I have as we get into it, we have well water yet we can't -- the landlord has got a problem with ceptic systems in that the Department of Health will not approve a ceptic system because of not only obviously your well that you have on that site, but correct me if I'm wrong, does the Water Authority have problems too because they have wells in the vicinity? Has the Water Authority made -- given us indications that they have a problem with expanding the effluent going into the ground because they have wells?

CHAIRPERSON FIELDS:

I think that's going to be Phase II, Legislator Haley.

LEG. HALEY:

I thought that's where we were.

CHAIRPERSON FIELDS:

But we're asking just now about the well water, we haven't gone into that portion.

LEG. HALEY:

Well, all right, we've established the well water is okay.

CHAIRPERSON FIELDS:

We're going to ask the Commissioner --

LEG. HALEY:

And one of the things you have to know about wells, the unfortunate part of it is when you use a -- larger wells require submersible pumps and it is obviously that much more difficult to deal with when you have a failure; I mean, that's just normal stuff.

CHAIRPERSON FIELDS:

Okay.

MR. WAYNE JONES:

And that's what happened.

CHAIRPERSON FIELDS:

I just want to ask another question before we get into Phase II completely. How many days into the lease are we, or into the -- how many days have gone by since -- how far behind is the landlord?

MS. DEREN-BRADDISH:

We have gone approximately --

CHAIRPERSON FIELDS:

We need a microphone.

MS. DEREN-BRADDISH:

I think we've gone, it's roughly a hundred days.

CHAIRPERSON FIELDS:

Exactly; can we find out exactly how many days?

MR. SABATINO:

What's the date of execution because we can --

DEPUTY COMMISSIONER JONES:

July 21st.

MR. SABATINO:

All right, let me just do some quick math right now.

CHAIRPERSON FIELDS:

July 21st.

MR. SABATINO:

This goes to the issue of the 450 days, right?

CHAIRPERSON FIELDS:

Right.

LEG. HALEY:

Madam Chair, I think that that's what my point was earlier about being behind; if you don't have a particular time line, you can't measure whether or not they're behind. Unfortunately, the only time you could ascertain when they're behind is 450 days later when they haven't completed. So there's a failure in a contractual arrangement with this particular gentleman.

MR. SABATINO:

I come up with 188 days.

CHAIRPERSON FIELDS:

So we're behind 188 days.

LEG. HALEY:

But you're not.

MR. SABATINO:

I think the question -- if we're a hundred -- assuming my math is right and we're 188 days into the 450 days, I think the question is what's been done on the substantial compliance standpoint in 188 days; what work has been progressed in the first 188 days.

CHAIRPERSON FIELDS:

Right.

MR. SABATINO:

Then you'll know whether or not there's a reasonable shot, as Legislator Haley indicated.

CHAIRPERSON FIELDS:

What's the status, where are we; what's been done?

MS. DEREN-BRADDISH:

Basically nothing, there hasn't been a shovel put in the ground because he's been unable to obtain his permits.

LEG. HALEY:

Are we in Phase II now?

CHAIRPERSON FIELDS:

Okay, now we're in Phase II. This is what I was leading up to.

LEG. HALEY:

Go ahead.

CHAIRPERSON FIELDS:

But we needed to have all of the facts. And I know that you want us to fly ahead, but there are so many facts that we need to know and have written down so that these things cannot come up again to, you know, haunt us. Legislator Haley.

LEG. HALEY:

Counsel was just mentioning that one of the problems is getting approvals from the Health Department; is that correct?

DEPUTY COMMISSIONER JONES:

Marty?

LEG. HALEY:

Go ahead. You know where I'm going.

DEPUTY COMMISSIONER JONES:

Here's what I think we know at this moment in time. Since the execution of the lease, the landlord has proceeded with the architectural renderings and drawings necessary to submit for a building permit; all of that has been submitted to the Town of Brookhaven and they began that process of obtaining their Health Department approval. And while they were doing that, the engineering was ongoing, etcetera, and things were moving along it seems in an appropriate time schedule to receive Health Department approval so that they can give that to the Town of Brookhaven and ultimately go to site plan approval to get their final building permit.

They went to the Health Department and went before the Board of Review which denied them the variance for the system that they wanted to put in and what they had intended to put in based on their calculations of current flow versus future flow. The Health Department recommended a different system for this site, it's called a chromoglass system. And since that determination and part of the purpose of this letter is to determine in writing if the landlord has agreed to put that in because if, in fact, they decide that they don't want to put that in, we don't see how they could possibly obtain a building permit for this project.

The other item which has caused a delay, although because of the Health Department delay it just is a concurrent delay, and that is that the Town of Brookhaven along the way decided that they wanted to have the Pine Barrens Commission review this plan or this expansion because it happens -- the building lies not in the core area but in the compatible --

LEG. HALEY:

That's a jurisdictional thing, they just need a jurisdiction letter.

DEPUTY COMMISSIONER JONES:

Yes, that's correct. And at the end of this month, on January 31st they will be going before the Pine Barrens Commission in order to obtain that hardship. And assuming that they get it, the Town of Brookhaven as I understand it, had scheduled a site plan review, the Planning Board had scheduled it for this past Monday but rescheduled it upon -- waiting for those two items to be received, that being the approval by our Department of Health along with the decision by the Pine Barrens Commission. It is my understanding --

LEG. HALEY:

That's assuming the approval based on using the chromoglass.

DEPUTY COMMISSIONER JONES:

Yes.

CHAIRPERSON FIELDS:

Let me interrupt one second. Commissioner Bradley, do you have anything to add to the occurrence of what's going to be happening in the future and what will and will not be allowed?

COMMISSIONER BRADLEY:

Everything that Mister --

CHAIRPERSON FIELDS:

You have to be on the microphone.

LEG. HALEY:

Madam Chair --

CHAIRPERSON FIELDS:

Go ahead.

LEG. HALEY:

Let me finish my whole line here.

CHAIRPERSON FIELDS:

I'd like for maybe Commissioner Bradley just to come up.

LEG. HALEY:

We talk about process and disjointed and everything. And I really appreciate Mr. Jones and all the information he has, but why does Mr. Jones has all of this information when if you go back to the problem of Phase I and we look forward to Phase II, there should be someone from DPW, someone who's measure and compliance and can follow this contract, whether form or an actual facilities improvements so that they -- in the future we don't have four or five different people from different departments that seem to be on top of all of this.

Now, my question is is that -- just to finish up, the chromoglass, by the end of the month we hope to know whether Pine Barrens will give them their letter? And we need to know whether or not -- we're assuming, I think it's safe to assume that if the Health Department has requested that they do chromoglass and they come back with a set of plans that reflects that, that that probably will be approved. But the other -- beyond that, we also have to ascertain whether or not the vendor or the landlord is willing to do that or he has no choice.

COMMISSIONER BRADLEY:

Correct. As was said, the Board of Review denied their application and the decision of the board or the recommendation of the board is that they could go forward --

CHAIRPERSON FIELDS:

Excuse me. What date did they deny that, do you know?

COMMISSIONER BRADLEY:

It was in November, early November.

CHAIRPERSON FIELDS:

Okay.

COMMISSIONER BRADLEY:

That an option would be a chromoglass system and that was presented to the landlord. Now, we as the health Department in terms of the permits have not heard one way or the other whether the landlord is going to be going forward with that chromoglass or not going forward, so we have not been contacted.

LEG. HALEY:

All right, I want to get a little technical just for a second. Is the chromoglass requirement because you have a well on site?

COMMISSIONER BRADLEY:

It has to do with flow concerns and with the increase with the occupancy in the building with the expansion, but there is a concern because the water authority has wells in that vicinity that we're concerned about and the water authority is also considering developing other wells in that area. So there's some special concerns in that area.

LEG. HALEY:

Well, you know, in all due respect to the Water Authority, that's their problem to purvey water, it has nothing to do with us, first of all. Second of all, if they happen to be so close, why aren't they not providing us water to that facility so we don't have to deal with a well?

COMMISSIONER BRADLEY:

Well, that will solve that problem, but it won't solve the discharge problem.

LEG. HALEY:

Right, the discharge problem is really separate from --

COMMISSIONER BRADLEY:

A separate problem.

LEG. HALEY:

We in the County -- okay, we have -- we measure what we believe is an appropriate discharge of effluent into the ground. Do we -- are we driven by the fact that the Water Authority might happen to have a well in the area?

COMMISSIONER BRADLEY:

That's a concern that we're worried about, of course.

LEG. HALEY:

But technically -- obviously it's a concern.

COMMISSIONER BRADLEY:

Because there are people that depend on that.

LEG. HALEY:

I understand that, I understand. But in absence of that 0Water

Authority well being there, okay, is this chromoglass a reaction to the Water Authority position, or is this chromoglass just a reaction to your normal requirements?

COMMISSIONER BRADLEY:

It's a normal requirement. They -- if the Water Authority wells weren't there, they may have been able to do TDR, Transfer of Development Rights. There is still over density, so it has to be dealt with in one way or the other.

LEG. HALEY:

Having done acquisition work for the Water Authority, okay, a master -- a jack of all trades and master of none, I might add -- it's not all that easy. And it's easy for them to say, "Yeah, we'd like to put more wells in there," but the reality of being able to put more wells in there may have an effect of, you know, damaging our ability to do the right thing over here and they may never put those wells. So if we're going to react every time the Water Authority says, "Yeah, we'd like to put more wells or more well fields," maybe on the same site which wouldn't make that much of a distance, you know, from a traveling perspective, you know, an aquifer flow, I don't -- I want to make sure that we're not reacting to the Water Authority. The Water Authority is not a County operation, they're their own operation, they have to purvey their water. And to the same extent that they might have input on a situation like that, and anybody could, any private entity could.

COMMISSIONER BRADLEY:

There is a current functioning well of the Water Authority now; yes, they are planning to put more but there's one now within the vicinity.

LEG. HALEY:

There's one there now?

COMMISSIONER BRADLEY:

Yes.

LEG. HALEY:

And the same vicinity they want to drop off --

COMMISSIONER BRADLEY:

In the same vicinity of the Health Center.

LEG. HALEY:

On the same property they want to drop more well heads.

COMMISSIONER BRADLEY:

In that area, I'm not saying it's right in the same property.

CHAIRPERSON FIELDS:

It's not the -- it's their property.

COMMISSIONER BRADLEY:

Correct.

CHAIRPERSON FIELDS:

Not our property. So --

LEG. HALEY:

It's their problem.

LEG. FOLEY:

It becomes our problem.

CHAIRPERSON FIELDS:

Well, it's our problem.

LEG. HALEY:

I'm saying that the Board of Review could have given this -- could have given this gentleman, you know, some relief. They shouldn't have been precluded from giving him relief because the Water Authority says that they want to supply water in a location down the road.

CHAIRPERSON FIELDS:

Do you agree with that, Commissioner Bradley?

COMMISSIONER BRADLEY:

No, I don't agree.

CHAIRPERSON FIELDS:

No.

COMMISSIONER BRADLEY:

Because if we're going to expand there and potentially definitely increase effluent out of there, we potentially could be destroying the well that many Suffolk County residents depend on. So I think --

LEG. HALEY:

An existing well I understand.

CHAIRPERSON FIELDS:

It's a health issue.

LEG. HALEY:

No, an existing well I understand.

COMMISSIONER BRADLEY:

Yes.

LEG. HALEY:

I was talking about -- they were talking about additional; I don't consider that an argument, "We want to put additional wells so, therefore, don't do that," that's invalid. An existing well I understand.

COMMISSIONER BRADLEY:

There is an existing, they're also planning others but there is an existing one now, Water Authority well.

LEG. HALEY:

Could you tell me what direction from the -- is it north, south, east or west?

COMMISSIONER BRADLEY:

He is saying west, I'd have to look at the decision, I don't remember.

LEG. HALEY:

The well is west?

COMMISSIONER BRADLEY:

I don't know.

LEG. HALEY:

If it's immediately west, then we'd probably -- the way the aquifer flows, it probably wouldn't be a problem, but that's neither here nor there.

CHAIRPERSON FIELDS:

So Commissioner Bradley, if that has been turned down, where are we at this point?

COMMISSIONER BRADLEY:

Well, they don't have a permit, so they need a permit to go forward. So they would have to come back to us saying, "We're going to be putting in a chromoglass system."

CHAIRPERSON FIELDS:

And how long do we wait? I mean, what point are we at now; how do we know whether we're moving forward, whether we're just stagnant?

COMMISSIONER BRADLEY:

Well, I think that was the letter that was just read into the record is trying to clarify where we are with the landlord; I mean, what are their intentions in terms of the chromoglass system.

CHAIRPERSON FIELDS:

County Exec's Office, do we have an answer as to why this Certificate of Necessity came forward to go forward on this lease?

MS. GODSMAN:

Bonnie Godsman, County Executive's Office. I'm sorry for the delay, I just wanted to check something at the Clerk's Office.

LEG. FOLEY:

I'm sorry, I didn't hear your name, could you say --

MS. GODSMAN:
Bonnie Godsman.

LEG. FOLEY:
Okay. Go ahead, please.

MS. GODSMAN:
In referring back to some notes we had, in the May 19th meeting there was discussion of a CN. However, with some concern around the

horseshoe, we decided not to go forward with a CN and it was kicked back to committee which it went through Ways and Means and the Health Committee. It was released and it was approved through the normal process on June 6th. Now, the discussion for the CN came about because we were concerned that the landlord, in order to have, I believe it was a shovel in the ground was the quote I received, before the winter months, he had some concerns with getting permits from the towns and that was the need for the CN. However, with some of the Legislators, you know, understandably having some concern over that, we did decide to go back to committee and that went through the normal process and was approved on June 6th. So there was no CN.

CHAIRPERSON FIELDS:
So it was approved on June 6th but they didn't sign it until July 17th?

MS. GODSMAN:
You mean the County Executive?

DEPUTY COMMISSIONER JONES:
July 21st.

CHAIRPERSON FIELDS:
The 21st? Why --

MS. GODSMAN:
The County Executive's signature?

CHAIRPERSON FIELDS:
Yeah. Why was there so --or the least was not signed until -- and effected, I guess. Why was there such a delay between the original --

MS. GODSMAN:
Well, the County Executive has 30 days to sign the resolution.

CHAIRPERSON FIELDS:
But why would --

MS. GODSMAN:

As far as the lease is concerned, I would have to defer to the County Attorney's Office. I am not familiar with the process that it goes through once it leaves the County Executive's desk as far as different sign-offs that would have to go on for the lease to be completed.

CHAIRPERSON FIELDS:

I think just -- I'm, you know, verbalizing my questions myself, maybe not for you to answer but just throwing them out there.

MS. GODSMAN:

I completely understand.

CHAIRPERSON FIELDS:

There was talk about a CN coming through, there was discussion of please -- you know, let's not bring this to committee anymore, we want to get this leased signed, time is of the essence, we've got to do all this, and then it took -- you're saying, well, then we have 30 days.

MS. GODSMAN:

Well, referring back to our staff's minutes from the General Meeting, the discussion around the horseshoe -- actually, much of it from yourself, Legislator Fields -- was that you would prefer it to be returned to committee so that it could go through the normal, correct process. I know there's always been some discussion as far as CN's go, you know, in the committee process and whatnot. But the County Executive's Office did agree that it should go through the normal committee process, even though we were concerned with the landlord getting the proper amount of time he needs to get the permits because the lease does commence on, I believe it was May 1st of 2001.

LEG. FOLEY:

All right, thank you.

CHAIRPERSON FIELDS:

Legislator Foley. Thank you very much, Bonnie.

MS. GODSMAN:

Sure.

LEG. FOLEY:

No questions for her. If the commissioner could come back, please. But also to answer your question on the CN, Madam Chair -- Madam Chair, as we heard that they want -- they meaning the Executive Branch as well as the landlord -- wanted to try to get a shovel in the ground before the winter. But what's interesting to note is that when we discussed this both in committee and on the floor of the Legislature when it was eventually approved, at that time it may have been lightly touched upon but there was never any real sense given to us that there was any great concerns about sewage treatment issues at the facility.

CHAIRPERSON FIELDS:

Or permits.

LEG. FOLEY:

Or that permits -- or that it would be unusually difficult to get permits that would then, in effect, delay the work until after winter. What's my point? My point is it was never sufficiently described to us, if you will, that there were great concerns about the sewage treatment facility, neither by the landlord or by those who were involved with it.

MS. GODSMAN:

Maybe I should clarify some of my statements. I don't think we foresaw any difficulty with the landlord getting any permits, just that I'm sure as you're aware being Chair of Public Works, as far as leases goes, getting permits is a very lengthy process. And it was to our understanding that when we had presented the CN that was the appropriate amount of months that it would take him to ascertain all of the permits that were necessary. It's not necessarily that we foresaw any difficulty.

LEG. FOLEY:

Not you, no, I'm not critical of the Executive.

MS. GODSMAN:

The sewage treatment I understand is a completely different issue.

LEG. FOLEY:

Yeah, that's exactly right.

MS. GODSMAN:

Just so you know, I just want to get that clarified as far as the permit process goes for certain things.

LEG. FOLEY:

Well, we're -- thank you, but we know how the permit process works. The fact that I'm saying, once again, is that neither the applicant nor those who were advocating for this particular lease made it clear on the record that there were great concerns about any sewage treatment permits that would be required. It was touched upon no doubt but, Madam Chair, it was never said to us that there would be problems with that. Maybe some didn't anticipate those problems but at the same time, it should have been made clear to us at that time that some of the concerns were sewage treatment, which it may have been raised. My only point is that it wasn't raised to such an extent that there would be a red flag on that and that we would need to address it earlier than later. Because now here we are not a hundred days, we're 180 days into the 450 day lease -- 450 day contract.

So my question, Madam Chair, whether it's going to be answered now or later, do we have any confidence that they're going to get the work

done within 450 days? And if the Board of Review turned down the application in November, now two full months have gone by, does that give concern to the commissioners of the Health Department and Social Services that we haven't heard or they haven't heard in two months time from the landlord on whether they intend to go forward with the chromoglass system.

CHAIRPERSON FIELDS:

Well, I would say that it's a good thing that the Space Management Committee precipitated this letter, because I think we wouldn't have moved in any direction, not that we've even moving in any direction.

But the second part of that would be what's the contingency plan at this point, what are our options? Because, you know, as we discussed in the other committees, do we really want to sign this lease and stay in this building or do we want to look for other property somewhere else? And we were told no, we want to stay in this building and so forth. Go ahead.

MS. DEREN-BRADDISH:

My only comment would be is we're really going to discuss alternatives, we might want to have an executive session.

LEG. FOLEY:

Okay.

MS. DEREN-BRADDISH:

Since litigation certainly would be a topic.

CHAIRPERSON FIELDS:

Okay, let's not talk then about another area but maybe first ask Commissioner Bradley where are we at this point.

COMMISSIONER BRADLEY:

Where are we in terms of the renovation and expansion?

CHAIRPERSON FIELDS:

You have to turn that on.

COMMISSIONER BRADLEY:

In terms of the renovation/expansion?

CHAIRPERSON FIELDS:

Uh-huh.

COMMISSIONER BRADLEY:

Well, right now we're waiting for the landlord to come back and say that he is or is not going to be putting in a chromoglass, and if he's not, then that's a contractual issue and I defer to the County Attorneys for that. And if he is going to go forward, then clearly we're not in the time frame that was spelled out in the lease, and

unless there's extraordinary attempt to get it done, I doubt if it's going to be done in the timeframe and then there will be penalties as per the lease because most of the renovations and expansions will not be completed on time.

LEG. FOLEY:

Right. Has there been -- through the Chair, has there been any questions, has anyone followed up with the landlord to find out why there's a delay in his decision making on whether he's going to move forward with the chromoglass system? Because as I said, two months have gone by.

COMMISSIONER BRADLEY:

We did have a follow up meeting explaining the needs for the chromoglass and that there really was no other option in our mind, that was probably a week, two, or three weeks after the Board of Review hearing.

LEG. FOLEY:

So that's early December.

COMMISSIONER BRADLEY:

Yeah, so then at that point -- either late November or early December -- he understood what our position was and it was not flexible.

LEG. FOLEY:

What has transpired between then and now?

COMMISSIONER BRADLEY:

Between -- environmental staff have not heard from him.

LEG. FOLEY:

Okay.

COMMISSIONER BRADLEY:

And again, that is why -- hopefully that letter will get some response from -- okay, just to clarify. After we had the meeting with him, we did send out a response to him in the first week in January saying based on our meeting that we had, just to clarify our position and the decision of the Board of Review is standing firm. So we have not heard since then.

CHAIRPERSON FIELDS:

I would suggest, then, at this particular point in time not to go into executive session, but to put this on the agenda for the next Health Committee meeting. At that point, have an answer from the landlord and be prepared to go into executive session to see if there is some other plan.

MS. DEREN-BRADDISH:

Just for informational purposes, I believe that Mr. Dragotta has been

in contact with the landlord.

CHAIRPERSON FIELDS:

But he's retiring February 2nd, he's not here now and he has not provided us with any assistance as far as I'm concerned.

MS. DEREN-BRADDISH:

Okay. Well, I just wanted to let you know that it appears that the landlord is redoing the engineering drawings or whatever it is to implement the chromoglass system, and so far it's our understanding that his intent is to proceed with that. There's another issue that's arisen, I'm not really quite aware of what it is yet but it seems that he is going ahead with the plans for the chromoglass.

LEG. FOLEY:

There are other issues you say?

MS. DEREN-BRADDISH:

There's just a lease issue that's arisen that we don't -- I haven't even looked at it yet and I'm not sure it's an issue.

LEG. FOLEY:

Okay. All the more reason we need to follow this up at our next Health Committee meeting.

CHAIRPERSON FIELDS:

We definitely will spend whatever time we need in the next Health Committee meeting to answer -- have those questions answered and maybe we should have the landlord present so that he could answer --

LEG. FOLEY:

His management firm, absolutely.

CHAIRPERSON FIELDS:

-- questions or the -- and the landlord, both the landlord and the management firm to answer. Even if Roy Dragotta is retired, maybe he might be present so that he could answer any questions and any conversations, Mr. Grier I would ask be present and obviously who is always present is Commissioner Bradley. So at this particular point then --

LEG. HALEY:

Madam Chair, just a request. We're still going in a disjointed way. Why can't we simply ask the County Executive to appoint an individual who will oversee the entire situation, even if it's a temporary appointment although it shouldn't be because I think there should be a compliance officer. Let's look at the -- have someone who can put it all together for us because we can sit and talk to 14 different people day in and day out and may not have a good picture of what's going on.

LEG. FOLEY:

The letter --

LEG. HALEY:

And not only that, to expand a little further, I understand the letter but, you know, I get concerned because I really think that compliance for leases, compliance with facilities, construction and everything, normally would go through a department of Public Works Committee. And I think it's important, based on past promises that weren't in writing, that when people from the Health Department or the Social Services Department make promises to us, I think what they really need to do is communicate with us so that if as and when we see a problem, we can go back to that County Executive's compliance officer and find out what's going on. And this way we preclude having to drag 20 or 30 people down here every time we have a meeting.

CHAIRPERSON FIELDS:

Well, you know --

LEG. FOLEY:

Madam Chair, it says right in the body of the letter as to who in Public Works would be the representative. But the way this is supposed to work is --

LEG. HALEY:

Where's that?

LEG. FOLEY:

The second paragraph it says it. The way these things are supposed to work is that there should be some interdepartmental communications about where things stand. And to my way of thinking, where things should stand at the next Health Committee meeting is that we should have answers by then on what time frame will unfold in order to get this work done hopefully on time. And then at that point, if we hear at that time that this work cannot be substantially completed within 450 days, I'll say it here on the record that I'm ready, willing and able to move forward, potentially move forward with the termination of this particular contract.

CHAIRPERSON FIELDS:

Basia, did you want --

MS. DEREN-BRADDISH:

No.

CHAIRPERSON FIELDS:

Okay, so we'll be prepared. And Legislator Haley, in response to your suggestion that we not have so many people here, it's been my experience over the last year that unless you have all of the people who are involved in a situation present, and as is clear today with Mr. Dragotta not being here, you don't get the questions answered that

you need to have answered. So I will continue to invite, you know, all of the people, some people may think it's a waste of time, but I think it's very clear that this Coram lease has been a major, major problem and way beyond my year of dealing with it. This apparently has -- Elsie Owens has put on the record that this has been a major problem for many, many years. So in order to get to the point of not having it be a problem, in consideration of not only the employees who work in the building but the clients who use the building, we're showing a complete disregard because we're playing it from one department to another and this one said that --

LEG. HALEY:
Right, but we --

CHAIRPERSON FIELDS:
It's ridiculous.

LEG. HALEY:
Excuse me, Madam Chair, but we enable it when we keep going to all of these various people looking for answers when we should be holding a single department, division and individual accountable for what's going on here and we're not doing that.

CHAIRPERSON FIELDS:
Well, yes we are. The whole reason --

LEG. FOLEY:
Absolutely.

LEG. HALEY:
Who is that -- tell me who that is.

CHAIRPERSON FIELDS:
If this meeting wasn't held today --

LEG. HALEY:
Tell me who that is.

CHAIRPERSON FIELDS:
If this meeting --

LEG. HALEY:
But who is that?

CHAIRPERSON FIELDS:
I'm answering your question. If this meeting were not held today and the letters were not sent out by myself to all of the individual parties, I would almost guarantee you that the letter never would have gone from the Space Management Committee to any of the other parties to say what is wrong, we have a problem and now we want to get to the

bottom of it. The end result today is because we have had all of the parties, we've have all the discussions, we've had all the committee meetings and we've had all the problems. Legislator Foley.

LEG. FOLEY:

Legislator Haley, with all due respect, you can't say that we have enabled the situation. We're the ones that are trying to bring some semblance of order to it, we're the ones that are asking the questions. We're the ones that are trying to ensure that the promises that were made would be kept.

LEG. HALEY:

Unwritten promises.

LEG. FOLEY:

It's not that we're -- what we're enabling now, what we're enabling now is an atmosphere that's going to get to the heart of the issues, that's what we're enabling. We're not enabling the problems here, we're trying to resolve it.

LEG. HALEY:

Perhaps you can answer the question then. Who is ultimately responsible --

LEG. FOLEY:

Ultimately responsible?

LEG. HALEY:

-- for this contract compliance and reporting all of the issues surrounding that to us, whether it's Public --

LEG. FOLEY:

The way it was promised to us was that Ms. Carbonetto and Mr. Jones, Mr. Bill Jones would be the --

LEG. HALEY:

That doesn't make sense, though, because --

LEG. FOLEY:

Well, that's the way it was promised to us at the meeting that we had approved this particular resolution. Now, couple that with the fact that there is now, 180 days later, an acknowledgment 180 days later that they need -- that there are some systemic problems in the way that they manage their facilities, whether the -- not so much County owned facilities but leased facilities. Now 180 days into this issue there is now realization by the Executive Branch that they need to have a different approach to handling the systemic problems with leased buildings. So in other words --

LEG. HALEY:

Thank you.

LEG. FOLEY:

-- this committee process has at least helped to enable that admission to be made.

LEG. HALEY:

Thank you.

CHAIRPERSON FIELDS:

Okay. Are there any other questions from the Legislators? Any other comments from our panel?

Let me thank you all for coming and for your responses. And hopefully next meeting we'll have a resolution to the problem and we can move forward either by saying that we will be able to and have it, the expansion, or have the expansion go forward and inhabit it, or that we will consider putting this facility in a different place if that can be done. Thank you very much, all of you.

We'll now move on to the agenda.

Tabled Resolutions

Okay, Tabled Resolutions IR 1749-00 (P) - Establishing Safe Haven Policy for the Blind (D'Andre).

LEG. FOLEY:

Motion to table.

CHAIRPERSON FIELDS:

Motion to table, second -- by Legislator Foley, seconded by myself. All in favor? Opposed? Tabled (VOTE: 4-0-0-0).

Tabled Sense Resolutions

Sense 148-2000 - Memorializing Resolution requesting the State of New York to uniformly make the torture of animals a felony (Cooper).
Motion to approve.

LEG. HALEY:

Second.

CHAIRPERSON FIELDS:

All in favor? Opposed? Approved (VOTE: 4-0-0-0).

Introductory Sense Resolutions

Sense 117-2001 - Memorializing Sense Resolution requesting the United States Department of Health and Human Services reinstate the requirement for Nurse Anesthetists to work under the supervision of a

physician trained in Anesthesiology (Guldi). Motion to approve

LEG. FOLEY:

Do we really get involved with this? You know, the pros and cons --

LEG. HALEY:

Madam Chair, can we ask the Commissioner to comment on this?

LEG. FOLEY:

Yeah, could we?

CHAIRPERSON FIELDS:

Commissioner Bradley?

LEG. HALEY:

Are you familiar with this?

COMMISSIONER BRADLEY:

I am familiar with the Sense Resolution.

LEG. FOLEY:

Is there an issue of nurse -- is there an issue in the County Health Department of Nurse Anesthetists not working under the supervision of a physician trained in Anesthesiology?

COMMISSIONER BRADLEY:

No, it's not an issue directly related to the County Health Department.

LEG. FOLEY:

Well, then what's the issue here?

COMMISSIONER BRADLEY:

It's not an issue directly related to the County Health Department.

LEG. POSTAL:

I can respond.

LEG. HALEY:

Legislator Foley, as United States --

MR. SABATINO:

It's just dealing with Medicare.

LEG. HALEY:

Medicare, right.

CHAIRPERSON FIELDS:

Legislator Postal?

LEG. POSTAL:

Yeah, there's just been a whole issue -- and this is not just here, it's across the country -- with regard to Nurse Anesthetists working without -- not under the supervision of a physician trained in Anesthesiology. I mean, there are a lot of pros and cons that we could probably debate it for the rest of time. I mean, one of the issues is that under the supervision of a Physician Anesthesiologist, that Physician Anesthesiologist can truly supervise ten different operating rooms in which there may be Nurse Anesthetists working. So, I mean, you can argue both sides of the issue but it has to do with Medicare and Medicaid.

CHAIRPERSON FIELDS:

One of the WHEREAS clauses in the Sense Resolution is, "Studies have shown that there's a significant increase in anesthesia-related deaths when Nurse Anesthetists are not supervised by a physician trained in Anesthesiology.

LEG. FOLEY:

Motion to approve.

COMMISSIONER BRADLEY:

I haven't seen any of those studies.

LEG. HALEY:

Yeah, I haven't seen anything either, I'm not inclined to go with this yet.

MR. SABATINO:

It's really a turf battle between, you know, the doctors and the nurses over -- it's really about money.

COMMISSIONER BRADLEY:

We saw this kind of thing when we first started having nurse practitioners, between physicians and nurse practitioners, you know, the battle about --

LEG. FOLEY:

Would you want to look into it a little bit more before --

LEG. POSTAL:

Yeah, why don't we table it.

CHAIRPERSON FIELDS:

Motion to table.

LEG. HALEY:

Second.

CHAIRPERSON FIELDS:

All in favor? Opposed? Motion is tabled (VOTE: 4-0-0-0).

LEG. POSTAL:
Madam Chair?

CHAIRPERSON FIELDS:
Yes.

LEG. POSTAL:
I was in the room for Sense 148 but I was just coming back when we considered Introductory Resolution 1749, I would like to be listed with the majority.

CHAIRPERSON FIELDS:
Okay, that will be duly noted. Thank you. Motion to adjourn. Thank you.

(*The meeting was adjourned at 12:31 P.M.*)

Legislator Ginny Fields, Chairperson
Health Committee